

1 DAVID GLENN SPIVAK (SBN 179684)

david@spivaklaw.com

2 JULIA ROSE McCOY (SBN 362025)

julia@spivaklaw.com

3 THE SPIVAK LAW FIRM

4 8605 Santa Monica Bl

PMB 42554

5 West Hollywood, CA 90069

6 Telephone: (213) 725-9094

7 Facsimile: (213) 634-2485

8 Attorneys for Plaintiff(s),

JOSE LUIS SANCHEZ, and other similarly situated “aggrieved employees”

9 (additional attorneys for Plaintiff(s) on following page)

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF ALAMEDA**

12 **(UNLIMITED JURISDICTION)**

13 JOSE LUIS SANCHEZ, as an “aggrieved
14 employee” on behalf of himself and other
15 similarly situated “aggrieved employees” under
16 the Labor Code Private Attorneys General Act of
2004,

17 *Plaintiff,*

18 vs.

19 ESCUE AND ASSOCIATES, INC. DBA OTM
20 FURNITURE INSTALLATION, a California
21 corporation; and DOES 1–50, inclusive,

22 *Defendants.*

Case No. **26CV184347**

**COMPLAINT FOR VIOLATIONS OF
THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED



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Mail:

8605 Santa Monica Bl
PMB 42554

West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:

1875 Century Park East
Fl 7
Los Angeles, CA 90067

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Superior Court of California,
County of Alameda

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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

WALTER L. HAINES (SBN 71075)
walter@uelglaw.com
UNITED EMPLOYEES LAW GROUP
8605 Santa Monica Bl.
PMB 63354
West Hollywood, CA 90069
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

Attorneys for Plaintiff(s),
JOSE LUIS SANCHEZ, and other similarly situated “aggrieved employees”



SPIVAK LAW
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Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1875 Century Park East
Fl 7
Los Angeles, CA 90067

1 Plaintiff, Mr. Jose Luis Sanchez (hereafter “Plaintiff” or “Sanchez”), on behalf of himself, the
2 State of California, and the other Aggrieved Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action based on alleged violations of the
5 California Labor Code and Industrial Welfare Commission Order No. 4-2001 (hereafter “the
6 Wage Order”), against Defendants Escue and Associates, Inc. dba OTM Furniture Installation, a
7 California corporation, and DOES 1-50, inclusive (collectively “Defendants”).

8 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
9 him, the State of California, and the Aggrieved Employees (defined below), for civil penalties
10 and other related relief. These claims are based on Defendants’ failures to:

11 (A) Pay all wages, including minimum, regular, overtime and doubletime
12 wages, earned for all hours worked at the correct rates of pay;

13 (B) Indemnify for necessary work-related expenditures;

14 (C) Issue only accurate and complete itemized wage statements;

15 (D) Timely pay wages during employment;

16 (E) Timely pay wages upon termination of employment; and

17 (F) Maintain accurate employment records.

18 Accordingly, Plaintiff now seeks to recover civil penalties and related relief through this
19 representative action.

20 **II. THE PARTIES**

21 3. Plaintiff Jose Luis Sanchez is a resident of California.

22 4. Defendant Escue and Associates, Inc. dba OTM Furniture Installation is a
23 corporation organized and existing under the laws of California and also a citizen of California
24 based on Plaintiff’s information and belief.

25 5. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
26 participation in the conduct alleged herein of the Defendants sued as DOES 1-50, inclusive, but
27 is informed and believes and thereon alleges that said Defendants are legally responsible for the
28 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.



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Fl 7
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1 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
2 when ascertained.

3 6. The “Aggrieved Employees” are all individuals the Defendants have employed or
4 otherwise contracted with in California as hourly, non-exempt employees, including, but not
5 limited to, commercial furniture installers, individuals performing work comparable to the
6 aforementioned, and individuals in similar positions during the period beginning one year before
7 the Plaintiff’s notice of February 6, 2026 to the California Labor and Workforce Development
8 Agency and ending on the date judgment is entered.

9 7. Plaintiff is informed and believes and thereon alleges that, at all relevant times
10 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
11 remaining defendants, and in doing the things hereinafter alleged, were acting within the course
12 and scope of such agency or employment, and with the approval and ratification of each of the
13 other Defendants.

14 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
15 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
16 of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved
17 Employees in accordance with applicable California labor laws as alleged herein.

18 9. Plaintiff is informed and believes and thereon alleges that each and every one of
19 the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants,
20 each acting as agents and/or employees, and/or under the direction and control of each of the other
21 defendants, and that said acts and failures to act were within the course and scope of said agency,
22 employment, and/or direction and control.

23 **III. FACTUAL ALLEGATIONS**

24 10. IWC Wage Order 4-2001 (“the Wage Order”) applies to “all persons employed in
25 professional, technical, mechanical, and similar occupations whether paid on a time, piece rate,
26 commission, or other basis...” Wage Order, § 1. The Wage Order defines “Professional,
27 Technical, Clerical, Mechanical, and Similar Occupations” to include

28 professional, semiprofessional, managerial, supervisory, laboratory, research,



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PMB 42554
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(213) 725-9094 Tel
(213) 634-2485 Fax
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Fl 7
Los Angeles, CA 90067

1 technical, clerical, office work, and mechanical occupations. Said occupations shall
2 include, but not be limited to, the following: accountants; agents; appraisers; artists;
3 attendants; audio-visual technicians; bookkeepers; bundlers; billposters;
4 canvassers; carriers; cashiers; checkers; clerks; collectors; communications and
5 sound technicians; compilers; copy holders; copy readers; copy writers; computer
6 programmers and operators; demonstrators and display representatives;
7 dispatchers; distributors; door-keepers; drafters; elevator operators; estimators;
8 editors; graphic arts technicians; guards; guides; hosts; inspectors; installers;
9 instructors; interviewers; investigators; librarians; laboratory workers; machine
10 operators; mechanics; mailers; messengers; medical and dental technicians and
11 technologists; models; nurses; packagers; photographers; porters and cleaners;
12 process servers; printers; proof readers; salespersons and sales agents; secretaries;
13 sign erectors; sign painters; social workers; solicitors; statisticians; stenographers;
14 teachers; telephone, radiotelephone, telegraph and call-out operators; tellers; ticket
15 agents; tracers; typists; vehicle operators; x-ray technicians; their assistants and
16 other related occupations listed as professional, semiprofessional, technical,
17 clerical, mechanical, and kindred occupations

12 Wage Order, § 2(O). At all relevant times during the applicable limitations period, the Defendants,
13 Sanchez, and all of the Aggrieved Employees were covered by the Wage Order because Sanchez
14 and all of the Aggrieved Employees worked for the Defendants as installers, their assistants and
15 other related occupations listed as professional, semi-professional, technical, clerical, mechanical,
16 and kindred occupations. Accordingly, Sanchez and all of the other Aggrieved Employees are
17 entitled to the protections the Wage Order provides.

18 11. On approximately October 3, 2022, the Defendants began to employ Sanchez in
19 Hayward, California in the position of hourly, non-exempt commercial furniture installer. The
20 Defendants continuously employed him in that capacity until on or about January 7, 2026, when
21 his employment ended.

22 12. At all relevant times, the Defendants issued wages to Sanchez and all of the other
23 Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all
24 relevant times, the Defendants classified Sanchez and all of the other Aggrieved Employees as
25 non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

26 13. At all relevant times, the Defendants failed to compensate Sanchez and all of the
27 other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of
28 pay. The Defendants failed to pay Sanchez and the Aggrieved Employees the minimum wage set



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(213) 725-9094 Tel
(213) 634-2485 Fax
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Fl 7
Los Angeles, CA 90067

1 forth in Industrial Welfare Commission Wage Order No. 4-2001 (the applicable “Wage Order”),
2 as required under California Labor Code section 1197. The operative Wage Order states, and the
3 Labor Code enforces, that employers hiring for jobs which require specialized or industry-specific
4 tools to perform shall provide and maintain such tools *or pay no less than twice the local minimum*
5 *wage to workers providing their own tools* for all hours worked at the applicable rates of pay. The
6 Defendants required and expected Sanchez and the other Aggrieved Employees to supply all of
7 the tools necessary to complete assigned jobs, including but not limited to cordless and hammer
8 drills, laser levels, screwdrivers, drill bits, and extensions, and other related tools. The Defendants
9 did not provide or maintain any of the tools required by Sanchez and the Aggrieved Employees
10 to fulfill the duties of their positions. However, the Defendants did not pay Sanchez or the other
11 Aggrieved Employees at least twice the minimum wage, as required by California law.
12 Furthermore, the Employers refused to reimburse Sanchez and the Aggrieved Employees the cost
13 of purchasing, repairing, and/or replacing damaged/stolen tools and equipment, and took no
14 precautions to protect employee equipment from damage or theft. If Sanchez or the Aggrieved
15 Employees lost, had stolen, or damaged such tools, including through wear and tear as an expected
16 consequence of use, the Employers did not schedule them for paid shifts until the employees
17 replaced the tools using personal funds. As a result of the foregoing facts, the Defendants did not
18 at any time compensate Sanchez and the Aggrieved Employees at the required minimum or
19 applicable rate of pay for any and all hours worked.

20 14. The Defendants also failed to pay Sanchez and the other Aggrieved Employees for
21 all regular hours worked. The Defendants provided vans to transport Sanchez and the Aggrieved
22 Employees to and from worksites. The Defendants regularly directed employer-provided
23 transportation to travel to multiple worksites, including sites at which Sanchez and the Aggrieved
24 Employees were not scheduled to work. At all times during which the vans waited at such
25 worksites, Sanchez and the Aggrieved Employees remained geographically restricted, unable to
26 engage freely in personal activities, and under employer control; therefore, all hours spent waiting
27 at such sites qualified as time worked by Sanchez and the Aggrieved Employees. However, the
28 Defendants did not compensate Sanchez or the other Aggrieved Employees for any of this time



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(213) 725-9094 Tel
(213) 634-2485 Fax
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Office:
1875 Century Park East
Fl 7
Los Angeles, CA 90067

1 worked at either the minimum, regular, or other applicable pay.

2 15. Furthermore, the Defendants did not allow Sanchez and the Aggrieved Employees
3 to record their own hours and regularly failed to accurately record employee time worked. The
4 Defendants directed “shift lead” managers to keep time records on behalf of Sanchez and the
5 Aggrieved Employees for the purpose of determining wages owed in each pay period. However,
6 the Employers often accepted falsely recorded reports from managers reflecting fewer hours
7 worked than the actual time worked by Sanchez and the Aggrieved Employees. The Defendants
8 expected all employees to self-report incorrect wage statements *after* each pay period, forcing
9 Sanchez and the other Aggrieved Employees to either independently record their time to review
10 against wages issued, or to compare their paid hours against other employees on the same “crews.”
11 The Employers then delayed repayment of Sanchez and the Aggrieved Employees’ underpaid
12 hours, disputed the corrections to time records, or neglected to transmit the additional corrected
13 compensation altogether for regular and all other hours worked.

14 16. At all relevant times, the Defendants failed to compensate Sanchez and all of the
15 other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day,
16 over 40 in a week, and for the first eight hours of the seventh day of the workweek. As described
17 above, the Defendants did not pay at least the minimum wage required by statute to Sanchez and
18 the Aggrieved Employees for regular hours worked. The Defendants also failed to compensate
19 all other hours worked at the applicable rates based on the Employees’ regular wage. The
20 Defendants therefore failed to compensate Sanchez and the Aggrieved Employees for all hours
21 over eight worked in a day at the overtime rate of 1.5x the lawful and correct regular wage rate,
22 as required by the California Labor Code and the Wage Order.

23 17. The Defendants further failed to compensate Sanchez and the Aggrieved
24 Employees for overtime hours worked while under employer control at the jobsites serviced by
25 Employer-controlled transportation vans, as described above. The Defendants did not pay
26 Sanchez and the Aggrieved Employees all owed overtime wages of time and one half for the
27 overtime hours during which they were forced to remain and wait at such sites.

28 18. Finally, the Defendants’ “shift lead” managers often failed to record, and the



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1 Defendants accepted false recording of, the time worked by Sanchez and the Aggrieved
2 Employees, including overtime hours worked (see above). The Defendants also recorded
3 overtime hours worked as regular hours and compensated Sanchez and the Aggrieved Employees
4 for such hours at their “regular” rates of pay, well below the legally mandated minimum wage.
5 The Defendants forced Sanchez and all of the other Aggrieved Employees to review wage
6 statements after issuance for unrecorded or under recorded overtime hours worked; the Employers
7 then failed to consistently or completely pay Sanchez and the Aggrieved Employees for disputed
8 time worked.

9 19. At all relevant times, the Defendants failed to compensate Sanchez and all of the
10 other Aggrieved Employees at the correct rates of pay for all hours worked over 12 in a day, and
11 all over the first eight of the seventh day of the workweek.

12 20. At all relevant times, the Defendants required Sanchez and all of the other
13 Aggrieved Employees to incur certain business expenses in the course of performing their duties.
14 The Defendants required Sanchez and all of the other Aggrieved Employees to supply mobile
15 phones, telecom, tools, equipment, protective gear, and PPE to perform their job duties. However,
16 the Defendants did not provide these items and did not reimburse Sanchez and the other
17 Aggrieved Employees for these items. The Defendants did not provide Sanchez and the other
18 Aggrieved Employees with the tools and equipment listed above, including but not limited to
19 hammers, drills, drill bits, screwdrivers, tape measures, tool belts, gloves, cordless power tool
20 sets, levels, and related tools, nor did the Employers reimburse Sanchez and the Aggrieved
21 Employees for the purchase, repair, or replacement of any such tools. Furthermore, the
22 Defendants required Sanchez and the other Aggrieved Employees to provide and use mobile
23 phones and cellular service for work purposes; the Employers did not compensate Sanchez or the
24 Aggrieved Employees for any costs associated with mobile phone purchase and usage. The
25 Defendants also expected Sanchez and the Aggrieved Employees to supply and use safety
26 equipment and personal protective gear at all times while working. Such safety equipment
27 includes but is not limited to gloves, helmets, safety vests, lifting support weight belts (to carry
28 heavy items), knee pads, and similar protective gear. The Defendants did not supply any such



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PMB 42554
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Fl 7
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1 equipment, did not reimburse Sanchez and the Aggrieved Employees for these necessary
2 purchases, and did not provide for their repair or replacement as necessary.

3 21. At all relevant times, the Defendants failed to issue to Sanchez and all of the other
4 Aggrieved Employees complete and accurate wage statements that state all hours worked at the
5 correct rates of pay, and all wages earned. The Defendants knowingly and intentionally failed to
6 state on the wage statements they issued to Sanchez and all of the other Aggrieved Employees
7 the unpaid wages discussed above. The wage statements fail to state all minimum wages earned,
8 all regular wages earned, all overtime wages earned, gross wages earned, net wages earned, all
9 hourly rates, all hours worked at each rate of pay, all doubletime wages earned, and related
10 information.

11 22. At all relevant times, the Defendants also failed to timely pay Sanchez and all of
12 the other Aggrieved Employees all earned wages as described above during and at the conclusion
13 of employment.

14 23. At all relevant times, the Defendants failed to maintain accurate employee records
15 of Sanchez and all of the other Aggrieved Employees.

16 24. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
17 unlawful practice and policies, Plaintiff and the Aggrieved Employees were:

18 A. Not paid all wages earned, including, but not limited to, minimum, regular,
19 overtime, and doubletime wages for work performed;

20 B. Not indemnified for all necessary business expenditures incurred during
21 the discharge of their duties;

22 C. Not provided with accurate and complete wage statements; and

23 D. Not timely paid all earned and unpaid wages during their employment with
24 Defendants and at the time such employment ended.

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(213) 634-2485 Fax
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1875 Century Park East
Fl 7
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IV. FIRST (AND ONLY) CAUSE OF ACTION
CIVIL PENALTIES

(Lab. Code §§ 2698, *et seq.*)

(By Plaintiff, on behalf of himself and the other Aggrieved Employees, against all Defendants)

25. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

26. At all relevant times, Plaintiff and the Aggrieved Employees have been non-exempt employees entitled to the protections of both the Labor Code and the Wage Order.

A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT THE CORRECT RATES OF PAY

27. Section 2 of the Wage Order defines “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

28. Section 3 of the Wage Order states:

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.

(b) Double the employee’s regular rate of pay for all



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(213) 725-9094 Tel
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Office:
1875 Century Park East
Fl 7
Los Angeles, CA 90067

hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

29. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consists of all hours that an employer has actual or constructive knowledge that employees are working.

30. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

31. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

32. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

33. Labor Code section 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

34. In conjunction, these provisions of the Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should have known



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1 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
2 Cal.4th 575, 585.)

3 35. At all relevant times during the applicable limitations period, Defendants failed to
4 compensate Plaintiff and the Aggrieved Employees for all hours worked, including, but not
5 limited to overtime wages for all overtime hours they worked at the correct rates of pay.

6 36. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
7 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
8 failure to compensate Plaintiff and the other Aggrieved Employees for all hours worked as
9 required by California law.

10 **B. FAILURE TO INDEMNIFY**

11 37. In pertinent part, California Labor Code § 2802(a) states: "An employer shall
12 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct
13 consequence of the discharge of his or her duties." Additionally, the Wage Order states,

14 (A) When uniforms are required by the employer to be worn by the
15 employee as a condition of employment, such uniforms shall be
16 provided and maintained by the employer.

17 ...

18 (B) When tools or equipment are required by the employer or are
19 necessary to the performance of a job, such tools and equipment
20 shall be provided and maintained by the employer, except that an
21 employee whose wages are at least two (2) times the minimum wage
22 provided herein may be required to provide and maintain hand tools
23 and equipment customarily required by the trade or craft.

24 Wage Order, § 9(B).

25 38. California Labor Code § 1198 prohibits employers from employing their
26 employees under conditions prohibited by the Wage Order.

27 39. At all relevant times, Defendants required Plaintiff and the Aggrieved Employees
28 to incur certain business expenses in the course of performing their duties. As described above,
the Defendants required Sanchez and all of the other Aggrieved Employees to incur certain
business expenses in the course of performing their duties. The Defendants required Sanchez and
all of the other Aggrieved Employees to supply mobile phones, telecom, tools, equipment,
protective gear and PPE to perform their job duties. However, the Defendants did not provide



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8605 Santa Monica Bl
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(213) 725-9094 Tel
(213) 634-2485 Fax
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1 these items and did not reimburse Sanchez and the other Aggrieved Employees for these items.
2 The Defendants did not provide Sanchez and the other Aggrieved Employees with the tools and
3 equipment listed above, including but not limited to hammers, drills, drill bits, screwdrivers, tape
4 measures, tool belts, gloves, cordless power tool sets, levels, and related tools, nor did the
5 Employers reimburse Sanchez and the Aggrieved Employees for the purchase, repair, or
6 replacement of any such tools. Furthermore, the Defendants required Sanchez and the other
7 Aggrieved Employees to provide and use mobile phones and cellular service for work purposes;
8 the Employers did not compensate Sanchez or the Aggrieved Employees for any costs associated
9 with mobile phone purchase and usage. The Defendants also expected Sanchez and the Aggrieved
10 Employees to supply and use safety equipment and personal protective gear at all times while
11 working. Such safety equipment includes but is not limited to gloves, helmets, safety vests, lifting
12 support weight belts (to carry heavy items), knee pads, and similar protective gear. The
13 Defendants did not supply any such equipment, did not reimburse Sanchez and the Aggrieved
14 Employees for these necessary purchases, and did not provide for their repair or replacement as
15 necessary.

16 40. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
17 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
18 failure to indemnify Plaintiff and the Aggrieved Employees for the reasonable expenses they
19 incurred during the course of performing their duties.

20 **C. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
21 **STATEMENTS**

22 41. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved
23 Employees were entitled to receive, bi-weekly or at the time of each payment of wages, an
24 accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable
25 hourly rates in effect during the pay period; and d) the corresponding number of hours worked at
26 each hourly rate by the employee.

27 42. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
28 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
the employer fails to provide accurate and complete information as required by California Labor
Code § 226(a) and the employee cannot "promptly and easily determine" from the wage statement
alone one or more of the following:



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1 A. The amount of the gross wages or net wages paid to the employee during
2 the pay period or any of the other information required to be provided on the itemized wage
3 statement pursuant to California Labor Code § 226(a);

4 B. Which deductions the employer made from gross wages to determine the
5 net wages paid to the employee during the pay period;

6 C. The name and address of the employer and, if the employer is a farm labor
7 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
8 and address of the legal entity that secured the services of the employer during the pay
9 period;

10 D. The name of the employee and only the last four digits of his or her social
11 security number or an employee identification number other than a social security number; and

12 E. The number of piece-rate units earned and the piece rate.

13 43. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
14 means a reasonable person would be able to readily ascertain the information without reference
15 to other documents or information.

16 44. As alleged herein, at all relevant times during the applicable limitations period,
17 Defendants violated California Labor Code section 226 because they did not properly and
18 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
19 the corresponding number of hours worked at each rate by the employee and other requirements
20 of California Labor Code section 226. Defendants failed to state in the wage statements they
21 issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned,
22 including, but not limited to, regular and overtime wages for work they performed off-the-clock
23 after clocking-out (as described above).

24 45. Defendants’ failure to provide Plaintiff and the other Aggrieved Employees with
25 accurate wage statements was knowing and intentional. Defendants had the ability to provide
26 Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally
27 provided wage statements that Defendants knew were not accurate.

28 46. As a result of being provided with inaccurate wage statements by Defendants,
Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive
accurate wage statements were violated and they were misled about the amount of wages they
had actually earned and were owed. In addition, the absence of accurate information on their wage



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(213) 634-2485 Fax
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Office:
1875 Century Park East
Fl 7
Los Angeles, CA 90067

1 statements prevented immediate challenges to Defendants' unlawful pay practices, has required
2 discovery and mathematical computations to determine the amounts of wages owed, has caused
3 difficulty and expense in attempting to reconstruct time and pay records and/or has led to the
4 submission of inaccurate information about wages to state and federal government agencies.
5 Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage
6 statements whether Defendants complied with their obligations under California Labor Code
section 226(a).

7 **D. UNTIMELY WAGES DURING EMPLOYMENT**

8 47. Labor Code § 204 states:

- 9
- 10 (a) All wages, other than those mentioned in Section 201, 201.3, 202,
11 204.1, or 204.2, earned by any person in any employment are due
12 and payable twice during each calendar month, on days designated
13 in advance by the employer as the regular paydays. Labor performed
14 between the 1st and 15th days, inclusive, of any calendar month
15 shall be paid for between the 16th and the 26th day of the month
16 during which the labor was performed, and labor performed between
17 the 16th and the last day, inclusive, of any calendar month, shall be
18 paid for between the 1st and 10th day of the following month. ...
- 19 (b) (1) Notwithstanding any other provision of this section, all
20 wages earned for labor in excess of the normal work period shall be
21 paid no later than the payday for the next regular payroll period.
- 22 (2) An employer is in compliance with the requirements of
23 subdivision (a) of Section 226 relating to total hours worked
24 by the employee, if hours worked in excess of the normal
25 work period during the current pay period are itemized as
26 corrections on the paystub for the next regular pay period.
Any corrections set out in a subsequently issued paystub
shall state the inclusive dates of the pay period for which the
employer is correcting its initial report of hours worked.
- 27 (c) However, when employees are covered by a collective bargaining
28 agreement that provides different pay arrangements, those
arrangements shall apply to the covered employees.
- (d) The requirements of this section shall be deemed satisfied by the
payment of wages for weekly, biweekly, or semimonthly payroll if
the wages are paid not more than seven calendar days following the
close of the payroll period.



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1 48. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all
2 hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff
3 and the Aggrieved Employees with all meal and rest periods in compliance with California laws.
4 Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages
5 on workdays they failed to provide them with one or more meal or rest periods in compliance
6 with California laws. As a result, Defendants failed to timely pay all earned minimum, overtime,
7 and premium wages due during employment within the time periods set by California Labor Code
8 section 204.

9 **E. UNTIMELY FINAL WAGES**

10 49. Labor Code § 201 provides that all earned and unpaid wages of an employee who
11 is discharged are due and payable immediately at the time of discharge.

12 50. Labor Code § 202 provides that all earned and unpaid wages of an employee who
13 quits after providing at least 72-hours' notice before quitting are due and payable at the time of
14 quitting and that all earned and unpaid wages of an employee who quits without providing at least
15 72-hours' notice before quitting are due and payable within 72 hours.

16 51. By failing to pay earned minimum and premium wages to Plaintiff and the
17 Aggrieved Employees, Defendants failed to timely pay them all earned and unpaid wages in
18 violation of Labor Code § 201 or § 202.

19 52. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
20 and the Aggrieved Employees all of their earned and unpaid wages (described above) have been
21 willful in that, at all relevant times, Defendants have deliberately maintained policies and
22 practices that violate the requirements of the Labor Code and the Wage Order, even though at all
23 relevant times, they have had the ability to comply with those legal requirements.

24 **F. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

25 53. Labor Code § 1174 states:

26 Every person employing labor in this state shall:

27 ...

28 (c) Keep a record showing the names and addresses of all employees
employed and the ages of all minors.

(d) Keep, at a central location in the state or at the plants or



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PMB 42554
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(213) 634-2485 Fax
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Fl 7
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1 establishments at which employees are employed, payroll records
2 showing the hours worked daily by and the wages paid to, and the
3 number of piece-rate units earned by and any applicable piece rate
4 paid to, employees employed at the respective plants or
5 establishments. These records shall be kept in accordance with rules
6 established for this purpose by the commission, but in any case shall
7 be kept on file for not less than three years. An employer shall not
8 prohibit an employee from maintaining a personal record of hours
9 worked, or, if paid on a piece-rate basis, piece-rate units earned.

10 54. Labor Code § 1174.5 states:

11 Any person employing labor who willfully fails to maintain the records
12 required by subdivision (c) of Section 1174, or to allow any member of the
13 commission or employees of the division to inspect records pursuant to
14 subdivision (b) of Section 1174, shall be subject to a civil penalty of five
15 hundred dollars (\$500).

16 55. Section 7 of the Wage Order states:

17 (a) Every employer shall keep accurate information with respect to
18 each employee including the following:

- 19 (1) Full name, home address, occupation, and social security
20 number.
- 21 (2) Birth date, if under 18 years, and designation as a minor.
- 22 (3) Time records showing when the employee begins and ends
23 each work period. Meal periods, split shift intervals and total
24 daily hours worked shall also be recorded. Meal periods
25 during which operations cease and authorized rest periods
26 need not be recorded.
- 27 (4) Total wages paid each payroll period, including value of
28 board, lodging, or other compensation actually furnished to
the employee.
- (5) Total hours worked in the payroll period and applicable rates
of pay. This information shall be made readily available to
the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece
rates or an explanation of the incentive plan formula shall be
provided to employees. An accurate production record shall



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Office:
1875 Century Park East
Fl 7
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be maintained by the employer.

56. Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

57. On information and belief, Defendants have willfully failed to maintain the records required by § 1174 and Wage Order, including, but not limited to, the total premium wages earned for missed meal and rest periods, and records pertaining to all unpaid hours worked by Plaintiff and the Aggrieved Employees.

58. Accordingly, Sanchez seeks an award of civil penalties against the Defendants on behalf of himself and all of the other Aggrieved Employees as follows: (1) \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and (2) \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

G. CIVIL PENALTIES SOUGHT

59. Defendants paid wages to employees on regular intervals. Defendants failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such intervals for all wages earned and all hours worked.

60. During the applicable time period, Defendants violated California Labor Code §§ 201, 202, 203, 204, 226, 510, 1174, 1194, 1197, 1198, 2802, and related Labor Code statutes.

61. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

62. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved Employees are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 201, 202, 203, 204, 226, 510, 1174, 1194, 1197, 1198, 2802, and related Labor Code statutes during the applicable limitations period in the following amounts:

A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for each aggrieved employee for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee for each subsequent, willful or intentional violation (penalty amounts established by California Labor Code § 210).



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1 B. For violations of California Labor Code § 226, two hundred fifty dollars (\$250.00)
2 per employee for initial violation and one thousand dollars (\$1,000.00) per employee for each
3 subsequent violation (penalty amounts established by California Labor Code § 226.3).

4 C. For violations of California Labor Code § 510, fifty dollars (\$50.00) for each
5 aggrieved employee for each initial violation for pay period for which the employee was
6 underpaid and one hundred dollars (\$100.00) for each underpaid employee for each pay period
7 for which the employee was underpaid (penalty amounts established by California Labor Code
8 § 558).

9 D. For violations of California Labor Code § 1174, five hundred dollars (\$500.00)
10 for each Aggrieved Employee for each initial violation (penalty amounts established by Labor
11 Code § 1174.5).

12 E. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for
13 each Aggrieved Employee for each initial and intentional violation and two hundred fifty dollars
14 (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period (regardless
15 of whether the initial violations were intentionally committed) (penalty amounts established by
16 California Labor Code § 1197.1).

17 F. For violations of California Labor Code §§ 201, 202, 203, 1194, 1198, and 2802,
18 one hundred dollars (\$100.00) for each aggrieved employee per pay period for each initial
19 violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
20 subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

21 **H. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS**

22 63. Plaintiff has complied with the procedures for bringing suit specified in California
23 Labor Code § 2699.3. By letter dated February 6, 2026, Plaintiff gave written notice by certified
24 mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific
25 provisions of the California Labor Code alleged to have been violated, including the facts and
26 theories to support the alleged violations. A true and correct copy of Plaintiff’s letter to the
27 LWDA, dated February 6, 2026, is attached hereto as **Exhibit A**. The LWDA has not responded
28 to Plaintiff’s letter.

64. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
Employees are entitled to an award of civil penalties, reasonable attorneys’ fees, and costs in
connection with their claims for civil penalties.



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Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1875 Century Park East
Fl 7
Los Angeles, CA 90067

EXHIBIT A



THE SPIVAK LAW FIRM

EMPLOYEE RIGHTS

8605 Santa Monica Bl PMB 42554 West Hollywood CA 90069 Mail
1875 Century Park East Fl 7 Los Angeles CA 90067 Office
(213) 725-9094 Tel
(213) 634-2485 Fax
spivaklaw.com Web

SENT BY ELECTRONIC SUBMISSION, CERTIFIED MAIL, AND EMAIL

February 6, 2026

Attn: PAGA Administrator
Labor and Workforce Development Agency
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Jose Luis Sanchez / OTM Furniture Installation

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Jose Luis Sanchez (hereafter “Sanchez” or “Complainant”) provides notice that Escue and Associates, Inc. dba OTM Furniture Installation, and related entities (collectively “the OTM Employers”) violated his rights and those of all other individuals the OTM Employers have employed or otherwise contracted with in California as hourly, non-exempt employees, including, but not limited to, commercial furniture installers, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 226, 510, 1174, 1194, 1197, 1198, 2802, and other Labor Code statutes. On behalf of himself and all other Aggrieved Employees, Sanchez hereby provides this notice to the Labor & Workforce Development Agency and the OTM Employers and their agents and representatives.

At all relevant times, the OTM Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Sanchez and all of the other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 4-2001 (hereafter “the Wage Order”) section 2, subdivision (F) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

/ / /

/ / /

Statement of Facts

On approximately October 3, 2022, the OTM Employers began to employ Sanchez in Hayward, California in the position of hourly, non-exempt commercial furniture installer. The OTM Employers continuously employed him in that capacity until on or about January 7, 2026, when his employment ended.

At all relevant times, the OTM Employers issued wages to Sanchez and all of the other Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the OTM Employers classified Sanchez and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

The OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. At all relevant times, the OTM Employers failed to pay Sanchez and the Aggrieved Employees the minimum wage set forth in Industrial Welfare Commission Wage Order No. 4-2001 (the applicable “Wage Order”), as required under California Labor Code section 1197. The operative Wage Order states, and the Labor Code enforces, that employers hiring for jobs which require specialized or industry-specific tools to perform shall provide and maintain such tools *or pay no less than twice the local minimum wage to workers providing their own tools* for all hours worked at the applicable rates of pay. The OTM Employers required and expected Sanchez and the other Aggrieved Employees to supply all of the tools necessary to complete assigned jobs, including but not limited to cordless and hammer drills, laser levels, screwdrivers, drill bits, and extensions, and other related tools. The OTM Employers did not provide or maintain any of the tools required by Sanchez and the Aggrieved Employees to fulfill the duties of their positions. However, the OTM Employers did not pay Sanchez or the other Aggrieved Employees at least twice the minimum wage, as required by California law. Furthermore, the OTM Employers refused to reimburse Sanchez and the Aggrieved Employees the cost of purchasing, repairing, and/or replacing damaged/stolen tools and equipment, and took no precautions to protect employee equipment from damage or theft. If Sanchez or the Aggrieved Employees lost, had stolen, or damaged such tools including through wear and tear as an expected consequence of use, the OTM Employers did not schedule them for paid shifts until the employees replaced the tools using personal funds. As a result of the foregoing facts, the OTM Employers did not at any time compensate Sanchez and the Aggrieved Employees at the required minimum or applicable rate of pay for any and all hours worked.

The OTM Employers also failed to pay Sanchez and the other Aggrieved Employees for all regular hours worked. The OTM Employers provided vans to transport Sanchez and the Aggrieved Employees to and from worksites. The OTM Employers regularly directed employer-provided transportation to travel to multiple worksites, including sites at which Sanchez and the Aggrieved Employees were not scheduled to work. At all times during which the vans waited at such worksites, Sanchez and the Aggrieved Employees remained geographically restricted, unable to engage freely in personal activities, and under employer control; therefore, all hours spent waiting at such sites qualified as time worked by Sanchez and the Aggrieved Employees. However, the OTM Employers did not compensate Sanchez or the other Aggrieved Employees for any of this time worked at either the minimum, regular, or other applicable pay.

Furthermore, the OTM Employers did not allow Sanchez and the Aggrieved Employees to record their own hours and regularly failed to accurately record employee time worked. The OTM Employers directed "shift lead" managers to keep time records on behalf of Sanchez and the Aggrieved Employees for the purpose of determining wages owed in each pay period. However, the OTM Employers often accepted falsely recorded reports from managers reflecting fewer hours worked than the actual time worked by Sanchez and the Aggrieved Employees. The OTM Employers expected all employees to self-report incorrect wage statements *after* each pay period, forcing Sanchez and the other Aggrieved Employees to either independently record their time to review against wages issued, or to compare their paid hours against other employees on the same "crews." The OTM Employers then delayed repayment of Sanchez and the Aggrieved Employees' underpaid hours, disputed the corrections to time records, or neglected to transmit the additional corrected compensation altogether for regular and all other hours worked. In each of the foregoing ways, the OTM Employers failed to pay Sanchez and all the other Aggrieved Employees the minimum and regular wages owed under California law.

The OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. As described above, the OTM Employers did not pay at least the minimum wage required by statute to Sanchez and the Aggrieved Employees for regular hours worked. The OTM Employers also failed to compensate all other hours worked at the applicable rates based on the Employees' regular wage. The OTM Employers therefore failed to compensate Sanchez and the Aggrieved Employees for all hours over eight worked in

a day at the overtime rate of 1.5x the lawful and correct regular wage rate, as required by the California Labor Code and the Wage Order.

The OTM Employers further failed to compensate Sanchez and the Aggrieved Employees for overtime hours worked while under employer control at the jobsites serviced by Employer-controlled transportation vans, as described above. The OTM Employers did not pay Sanchez and the Aggrieved Employees all owed overtime wages of time and one half for the overtime hours during which they were forced to remain and wait at such sites.

Finally, the OTM Employers' "shift lead" managers often failed to record, and the OTM Employers accepted false recording of, the time worked by Sanchez and the Aggrieved Employees, including overtime hours worked (see above). The OTM Employers also recorded overtime hours worked as regular hours and compensated Sanchez and the Aggrieved Employees for such hours at their "regular" rates of pay, well below the legally mandated minimum wage. The OTM Employers forced Sanchez and all of the other Aggrieved Employees to review wage statements after issuance for unrecorded or under recorded overtime hours worked; the OTM Employers then failed to consistently or completely pay Sanchez and the Aggrieved Employees for disputed time worked. In the above-described ways, the OTM Employers regularly failed to compensate Sanchez and the Aggrieved Employees for overtime hours worked.

At all relevant times and as a result of the actions described above, the OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over 12 in a day, and all over the first eight of the seventh day of the workweek.

At all relevant times, the OTM Employers required Sanchez and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The OTM Employers required Sanchez and all of the other Aggrieved Employees to supply mobile phones, telecom service, tools, equipment, protective gear, and PPE to perform their job duties. However, the OTM Employers did not provide these items and did not reimburse Sanchez and the other Aggrieved Employees for these items. The OTM Employers did not provide Sanchez and the other Aggrieved Employees with the tools and equipment listed above, including but not limited to hammers, drills, drill bits, screwdrivers, tape measures, tool belts, gloves, cordless power tool sets, levels, and related tools, nor did the OTM Employers reimburse Sanchez and the Aggrieved Employees for the purchase, repair, or replacement of any such tools.

Furthermore, the OTM Employers required Sanchez and the other Aggrieved Employees to provide and use mobile phones and cellular service for work purposes; the OTM Employers did not compensate Sanchez or the Aggrieved Employees for any costs associated with mobile phone purchase and usage. The OTM Employers also expected Sanchez and the Aggrieved Employees to supply and use safety equipment and personal protective gear at all times while working. Such safety equipment includes but is not limited to gloves, helmets, safety vests, lifting support weight belts (to carry heavy items), knee pads, and similar protective gear. The OTM Employers did not supply any such equipment, did not reimburse Sanchez and the Aggrieved Employees for these necessary purchases, and did not provide for their repair or replacement as necessary.

At all relevant times, the OTM Employers failed to issue to Sanchez and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The OTM Employers knowingly and intentionally failed to state on the wage statements they issued to Sanchez and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, gross wages earned, net wages earned, all hourly rates, all hours work at each rate of pay, and other required information.

The OTM Employers also failed to timely pay Sanchez and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment.

The OTM Employers failed to maintain accurate employee records of Sanchez and all of the other Aggrieved Employees.

For the reasons stated herein, Sanchez alleges the following violations of the Labor Code and the Wage Order on behalf of himself and all of the other Aggrieved Employees:

- (a) The OTM Employers failed to pay Sanchez and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, overtime, and doubletime wages;

- (b) The OTM Employers failed to indemnify Sanchez and all of the other Aggrieved Employees for the reasonable expenses they incurred during the course of performing their duties;
- (c) The OTM Employers knowingly and intentionally failed to provide Sanchez and all of the other Aggrieved Employees with accurate wage statements;
- (d) The OTM Employers willfully failed to timely pay Sanchez and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the OTM Employers and when their employment ended;
- (e) The OTM Employers failed to maintain accurate employment records pertaining to Sanchez and all of the other Aggrieved Employees.

Accordingly, Sanchez now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees based on the OTM Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to "all persons employed in professional, technical, mechanical, and similar occupations whether paid on a time, piece rate, commission, or other basis..." Wage Order, § 1. The Wage Order defines "Professional, Technical, Clerical, Mechanical, and Similar Occupations" to include

professional, semiprofessional, managerial, supervisory, laboratory, research, technical, clerical, office work, and mechanical occupations. Said occupations shall include, but not be limited to, the following: accountants; agents; appraisers; artists; attendants; audio-visual technicians; bookkeepers; bundlers; billposters; canvassers; carriers; cashiers; checkers; clerks; collectors; communications and sound technicians; compilers; copy holders; copy readers; copy writers; computer programmers and operators; demonstrators and display representatives; dispatchers; distributors; doorkeepers; drafters; elevator operators; estimators; editors; graphic arts technicians; guards; guides; hosts; inspectors; *installers*; instructors; interviewers; investigators; librarians; laboratory workers; machine operators;

mechanics; mailers; messengers; medical and dental technicians and technologists; models; nurses; packagers; photographers; porters and cleaners; process servers; printers; proof readers; salespersons and sales agents; secretaries; sign erectors; sign painters; social workers; solicitors; statisticians; stenographers; teachers; telephone, radiotelephone, telegraph and call-out operators; tellers; ticket agents; tracers; typists; vehicle operators; x-ray technicians; their assistants and other related occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations

Wage Order, § 2(O), emphasis added. At all relevant times during the applicable limitations period, the OTM Employers, Sanchez, and all of the Aggrieved Employees were covered by the Wage Order because the OTM Employers operated, and Sanchez, and all of the Aggrieved Employees, worked for the OTM Employers as installers, their assistants and other related occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations. Accordingly, Sanchez and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, “The minimum wage for employees *fixed by the commission* is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Emphasis added. In relevant part, section 9(B) of the Wage Order states,

When tools or equipment are *required by the employer* or are *necessary to the performance of a job*, such tools and equipment shall be provided and maintained by the employer, except that *an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment* customarily required by the trade or craft.

Emphasis added. In relevant part, section 2(K) of the Wage Order states,

“Hours worked” means the time during which an employee is *subject to the control of an employer*, and includes all the time the employee is suffered or permitted to work, whether or not required to do so[.]

Emphasis added. In relevant part, Labor Code section 1194 states:

- (a) 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.

In relevant part, Labor Code section 510 states:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;
- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek; and
- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

In conjunction, these provisions of the Labor Code and Wage Order require employers to pay employees no less than their agreed-upon or *statutorily mandated* wage rates for all hours worked, including hours spent working “off-the-clock” (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

At all relevant times, the OTM Employers failed to pay Sanchez and the Aggrieved Employees the minimum wage set forth in Industrial Welfare Commission Wage Order No. 4-2001 (the applicable “Wage Order”), as required under California Labor Code section 1197. The operative Wage Order states, and the Labor Code enforces, that employers hiring for jobs which require specialized or industry-specific tools to perform shall provide and maintain such tools *or pay no less than twice the local minimum wage to workers providing their own tools* for all hours worked at the applicable rates of pay. The OTM Employers required and expected Sanchez and the other Aggrieved Employees to supply all of the tools necessary to complete assigned jobs, including but not limited to cordless and hammer drills, laser levels, screwdrivers, drill bits, and extensions, and other related tools. The OTM Employers did not provide or maintain any of the tools required by Sanchez and the Aggrieved Employees to fulfill the duties of their positions. However, the OTM Employers did not pay Sanchez or the other Aggrieved Employees at least twice the minimum wage, as required by California law. Furthermore, the OTM Employers refused to reimburse Sanchez and the Aggrieved Employees the cost of

purchasing, repairing, and/or replacing damaged/stolen tools and equipment, and took no precautions to protect employee equipment from damage or theft. If Sanchez or the Aggrieved Employees lost, had stolen, or damaged such tools, including through wear and tear as an expected consequence of use, the OTM Employers did not schedule them for paid shifts until the employees replaced the tools using personal funds. As a result of the foregoing facts, the OTM Employers did not at any time compensate Sanchez and the Aggrieved Employees at the required minimum or applicable rate of pay for any and all hours worked.

The OTM Employers also failed to pay Sanchez and the other Aggrieved Employees for all regular hours worked. The OTM Employers provided vans to transport Sanchez and the Aggrieved Employees to and from worksites. The OTM Employers regularly directed employer-provided transportation to travel to multiple worksites, including sites at which Sanchez and the Aggrieved Employees were not scheduled to work. At all times during which the vans waited at such worksites, Sanchez and the Aggrieved Employees remained geographically restricted, unable to engage freely in personal activities, and under employer control; therefore, all hours spent waiting at such sites qualified as time worked by Sanchez and the Aggrieved Employees. However, the OTM Employers did not compensate Sanchez or the other Aggrieved Employees for any of this time worked at either the minimum, regular, or other applicable pay.

Furthermore, the OTM Employers did not allow Sanchez and the Aggrieved Employees to record their own hours and regularly failed to accurately record employee time worked. The OTM Employers directed “shift lead” managers to keep time records on behalf of Sanchez and the Aggrieved Employees for the purpose of determining wages owed in each pay period. However, the OTM Employers often accepted falsely recorded reports from managers reflecting fewer hours worked than the actual time worked by Sanchez and the Aggrieved Employees. The OTM Employers expected all employees to self-report incorrect wage statements *after* each pay period, forcing Sanchez and the other Aggrieved Employees to either independently record their time to review against wages issued, or to compare their paid hours against other employees on the same “crews.” The OTM Employers then delayed repayment of Sanchez and the Aggrieved Employees’ underpaid hours, disputed the corrections to time records, or neglected to transmit the additional corrected compensation altogether for regular and all other hours worked. In each of the foregoing ways, the OTM Employers failed to pay Sanchez and all the other Aggrieved Employees the minimum and regular wages owed under California law.

The OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. As described above, the OTM Employers did not pay at least the minimum wage required by statute to Sanchez and the Aggrieved Employees for regular hours worked. The OTM Employers also failed to compensate all other hours worked at the applicable rates based on the Employees' regular wage. The OTM Employers therefore failed to compensate Sanchez and the Aggrieved Employees for all hours over eight worked in a day at the overtime rate of 1.5x the lawful and correct regular wage rate, as required by the California Labor Code and the Wage Order.

The OTM Employers further failed to compensate Sanchez and the Aggrieved Employees for overtime hours worked while under employer control at the jobsites serviced by Employer-controlled transportation vans, as described above. The OTM Employers did not pay Sanchez and the Aggrieved Employees all owed overtime wages of time and one half for the overtime hours during which they were forced to remain and wait at such sites.

Finally, the OTM Employers' "shift lead" managers often failed to record, and the OTM Employers accepted false recording of, the time worked by Sanchez and the Aggrieved Employees, including overtime hours worked (see above). The OTM Employers also recorded overtime hours worked as regular hours and compensated Sanchez and the Aggrieved Employees for such hours at their "regular" rates of pay, well below the legally mandated minimum wage. The OTM Employers forced Sanchez and all of the other Aggrieved Employees to review wage statements after issuance for unrecorded or under recorded overtime hours worked; the OTM Employers then failed to consistently or completely pay Sanchez and the Aggrieved Employees for disputed time worked. In the above-described ways, the OTM Employers regularly failed to compensate Sanchez and the Aggrieved Employees for overtime hours worked.

At all relevant times and as a result of the actions described above, the OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over 12 in a day, and all over the first eight of the seventh day of the workweek.

At all relevant times during the applicable limitations period, the OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, overtime, and doubletime wages for all

hours they worked at the correct rates of pay. Accordingly, Sanchez now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code § 558);
2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));
3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and
4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code §§ 1198 and 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

Additionally, the Wage Order states,

- (A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.

...

- (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.

Wage Order, § 9(B).

Labor Code Section 1198 prohibits an employer from employing any person under conditions that violate the Wage Order.

As described above, the OTM Employers required Sanchez and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The OTM Employers required Sanchez and all of the other Aggrieved Employees to supply mobile phones, telecom, tools, equipment, protective gear, and PPE to perform their job duties. However, the OTM Employers did not provide these items and did not reimburse Sanchez and the other Aggrieved Employees for these items. The OTM Employers did not provide Sanchez and the other Aggrieved Employees with the tools and equipment listed above, including but not limited to hammers, drills, drill bits, screwdrivers, tape measures, tool belts, gloves, cordless power tool sets, levels, and related tools, nor did the OTM Employers reimburse Sanchez and the Aggrieved Employees for the purchase, repair, or replacement of any such tools. Furthermore, the OTM Employers required Sanchez and the other Aggrieved Employees to provide and use mobile phones and cellular service for work purposes; the OTM Employers did not compensate Sanchez or the Aggrieved Employees for any costs associated with mobile phone purchase and usage. The OTM Employers also expected Sanchez and the Aggrieved Employees to supply and use safety equipment and personal protective gear at all times while working. Such safety equipment includes but is not limited to gloves, helmets, safety vests, lifting support weight belts (to carry heavy items), knee pads, and similar protective gear. The OTM Employers did not supply any such equipment, did not reimburse Sanchez and the Aggrieved Employees for these necessary purchases, and did not provide for their repair or replacement as necessary. Accordingly, Sanchez seeks civil penalties for these Labor Code violations that the OTM Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the 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 his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;

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.

At all relevant times during the applicable limitations period, the OTM Employers violated Labor Code section 226 because they did not properly and accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The OTM Employers failed to state in the wage statements they issued to Sanchez and all of the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock after clocking-out (as described above). The OTM Employers knowingly and intentionally failed to state on the wage statements they issued to Sanchez and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, gross wages earned, net wages earned, all hourly rates, all hours work at each rate of pay, and other required information.

Labor Code § 2699(f)(2)(A) states:

- (i) If, at the time of the alleged violation, the person employs one or more employees, and the alleged violation is a violation of paragraphs (1) to (7), inclusive, or paragraph (9) of subdivision (a) of Section 226, the only civil penalty applicable under this part is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226 [failure to state the name and address of the legal entity that is the employer], the civil penalty applicable under this part for the violation is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer. This subdivision does not apply if the

employer has failed to provide an itemized payroll statement during any of the pay periods at issue.

- (ii) The civil penalty is fifty (\$50) for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods.

Accordingly, Sanchez seeks civil penalties for the Labor Code violations that the OTM Employers have committed against Sanchez and all of the other Aggrieved Employees as follows:

- (1) \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3);
- (2) Alternatively, one hundred dollars (\$100) for each aggrieved employee per pay period;
- (3) Alternatively, twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226; and
- (4) Alternatively, fifty dollars (\$50) for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods.

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) 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. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, doubletime wages, and other compensation, at the intervals stated above. As a result, the OTM Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Sanchez now seeks civil penalties for the Labor Code violations that the OTM Employers have committed against him and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, 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. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the 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 therefor is commenced; but the wages shall not continue for more than 30 days.

The OTM Employers failed to pay Sanchez and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Sanchez, including minimum wages, regular wages, overtime wages, doubletime wages, and other compensation. By failing to pay Sanchez and all of the other Aggrieved Employees as set forth above at the end of employment, the OTM Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of himself and all of the other Aggrieved Employees, Sanchez seeks civil penalties from the OTM Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.
- (d) 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, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order states,

- (a) Every employer shall keep accurate information with respect to each employee including the following:
 - (1) Full name, home address, occupation, and social security number.
 - (2) Birth date, if under 18 years, and designation as a minor.
 - (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
 - (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The OTM Employers failed to compensate Sanchez and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, gross wages earned, net wages earned, all hourly rates, all hours work at each rate of pay, and related compensation. As a result, the OTM Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Sanchez and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, Sanchez seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

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Re: Jose Luis Sanchez
February 6, 2026
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Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Jose Luis Sanchez will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



David Spivak, Esq.
David@spivaklaw.com

cc: Mr. Jose Luis Sanchez
Mr. Walter L. Haines, Esq.

Escue and Associates, Inc. dba OTM Furniture Installation
c/o Agent for service of process
Jason Kohler
31101 Wiegman Road Door-A
Hayward, CA 94544
jkohler@otminstalls.com

Escue and Associates, Inc. dba OTM Furniture Installation
c/o Agent for service of process
Jason Kohler
860 Embarcadero Drive Suite 40
West Sacramento, CA 95605
jkohler@otminstalls.com