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Attorneys for Plaintiff and the aggrieved employees

VENTURA
SUPERIOR COURT
FILED

DEC 04 2023

BRENDA L. McCORMICK
Executive Officer and Clerk
By: _____, Deputy

D. HERNANDEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

SONNY BERNAL, an individual, on behalf
of himself and others similarly situated

PLAINTIFF,

v.

SAALEX CORP.; and DOES 1 thru 50,
inclusive,

DEFENDANT.

CASE NO. 2023CUOE014627

[Case Assigned for All Purposes to Hon. Ben
Coats in Dept. 43]

[Amended as a matter of right, pursuant to
Labor Code § 2699.3(a)(2)(C)]

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT**

By *FAK*

1. Penalties Pursuant to Labor Code §2699,
et seq.

1 Plaintiff SONNY BERNAL, an individual, on behalf of “himself”, on behalf of the people
2 of the State of California and as an “aggrieved employee” under Labor Code Private Attorneys
3 General Act of 2004, § 2699, *et seq.* (hereafter “PAGA”), complains of Defendant SAALEX
4 CORP. (“Defendant”) and each of them, as follows:

5 **I.**

6 **INTRODUCTION**

7 1. This is a Representative Action, pursuant to Code of Civil Procedure § 382, on
8 behalf of Plaintiff and a group of aggrieved employees defined as:

9 All persons who are employed or have been employed as an exempt
10 or non-exempt worker by Saalex Corp., in the State of California
11 who worked one or more pay periods since one (1) year prior to the
date of this letter and continuing to the present. (“aggrieved
employees”)

12 2. For at least one (1) year prior to the date of the letter sent to the Labor Workforce
13 and Development Agency (“LWDA”) and Defendant on September 26, 2023 giving notice of this
14 claim pursuant to PAGA and continuing to the present, Defendant has failed to properly comply
15 with Labor Code § 2802.

16 3. Defendant has failed to reimburse Plaintiff and the aggrieved employees for
17 business-related expenses. Defendant has failed to reimburse Plaintiff and the aggrieved
18 employees for the cost of using their personal cell phones and personal vehicles for business related
19 purposes. Defendant required that Plaintiff and the aggrieved employees be available by cell phone
20 when out of office and answer/use their cell phones while working, and this was necessary to
21 perform their job duties. Plaintiff and the aggrieved employees also used their own vehicles to
22 travel between buildings at Defendant’s job site during the course of a work shift. These are both
23 necessary business expenditures under California law and Defendant failed to provide and
24 reimburse the Plaintiff and the aggrieved employees for the costs associated with using these
25 personal cell phones and personal vehicles.

26 4. Plaintiff, on behalf of himself and all aggrieved employees presently or formerly
27 employed by Defendant during the liability period as defined in his PAGA notice letter (*see* Exhibit
28 “1”), brings this representative action pursuant to Labor Code § 2699, *et seq.* seeking penalties for

1 Defendant's violations of Labor Code § 2802.

2 **II.**

3 **JURISDICTION AND VENUE**

4 5. This Court has subject matter jurisdiction over all causes of action asserted herein
5 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure
6 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive
7 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the
8 State of California or is subject to adjudication in the courts of the State of California.

9 6. This Court has personal jurisdiction over Defendant because Defendant has caused
10 injuries in the County of Ventura and the State of California through their acts, and by their
11 violation of the California Labor Code, California state common law, and California Business &
12 Professions Code § 17200, *et seq.*

13 7. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
14 Civil Procedure § 395. Defendant operates within California and does business within Ventura
15 County. The unlawful acts alleged herein have a direct effect on Plaintiff and all Proposed Class
16 Members within the State of California and the county of Ventura.

17 8. Plaintiff files this amended complaint removing the class claims and pursuing a
18 single cause of action for penalties pursuant to Labor Code § 2699, *et seq.* as a matter of right,
19 pursuant to Labor Code § 2699.3(a)(2)(C)].

20 **III.**

21 **PARTIES**

22 **A. PLAINTIFF**

23 9. Plaintiff SONNY BERNAL is a resident of California.

24 10. Plaintiff and all aggrieved employees, were regularly required to:

25 a. Work without being reimbursed for their out-of-pocket expenses and
26 mileage;

27 11. Plaintiff and all aggrieved employees as defined in his notice letter to the LWDA
28 are "aggrieved employees" within the meaning of Labor Code § 2699, *et seq.* (*see* Labor Code

§2699(c.)

B. DEFENDANT

12. Defendant SAALEX CORP. is believed to be a California corporation operating within the State of California. Defendant's corporate address is believed to be 811-A Camarillo Springs Road, Camarillo, CA 93012. Upon information and belief, Defendant employed Plaintiff and similarly situated persons as hourly employees within California. Defendant has done and does business throughout the State of California.

13. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendant sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendant by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendant designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendant designated hereinafter as DOES when such identities become known.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendant. Furthermore, Defendant in all respects acted as the employer and/or joint employer of Plaintiff and the aggrieved employees.

15. Furthermore, Defendant acted in all respects as the employers or joint employers of the aggrieved employees. Defendant, and each of them, exercised control over the wages, hours or working conditions of the aggrieved employees, or suffered or permitted the aggrieved employees to work, or engaged, thereby creating a common law employment relationship, with the aggrieved employees. Therefore, Defendant, and each of them, employed or jointly employed the aggrieved employees.

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1 **IV.**

2 **FACTUAL BACKGROUND**

3 16. Plaintiff and the aggrieved employees are, and at all times pertinent hereto, have
4 been classified as employees by Defendant.

5 17. Upon information and belief, Plaintiff and the aggrieved employees are covered by
6 California Industrial Welfare Commission Occupational Wage Order No. 5-2001 (Title 8 Cal.
7 Code of Regs. § 11050).

8 18. On a regular and consistent basis, Plaintiff and the aggrieved employees have not
9 been properly reimbursed expenses associated with the cost of using their cell phones necessary
10 for the completion of their job duties. Defendant has also failed to reimburse Plaintiff and the
11 aggrieved employees for their mileage. Plaintiff and the aggrieved employees have not
12 compensated for the mileage on their personal vehicles that was incurred as a necessary part of the
13 performance of their job duties.

14 19. As a result of the acts alleged herein, Defendant violated Labor Code §2699, *et seq.*

15 **V.**

16 **FIRST CAUSE OF ACTION**

17 **PLAINTIFF ON BEHALF OF HIMSELF AND THE AGGRIEVED EMPLOYEES**
18 **AGAINST ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE §**
19 **2699, ET SEQ. FOR VIOLATIONS OF LABOR CODE § 2802**

20 20. Plaintiff, on behalf of himself and the aggrieved employees, realleges and
21 incorporates by reference all previous paragraphs.

22 21. Plaintiff brings this representative action on behalf of himself and the State of
23 California as well as on behalf of a group of aggrieved employees defined as: All persons who are
24 employed or have been employed as an exempt or non-exempt worker by Saalex Corp., in the
25 State of California who worked one or more pay periods since one (1) year prior to the date of this
26 letter and continuing to the present. (“aggrieved employees”).

27 22. For at least one (1) year prior to the date of the letter sent to the Labor and
28 Workforce Development Agency and Defendant giving notice of these PAGA claims and

1 continuing to the present, Defendant has violated Labor Code § 2802 with respect to Plaintiff and
2 all aggrieved employees.

3 23. Labor Code § 2802 requires employers to indemnify employees for all necessary
4 expenditures incurred by employees in the discharge of their duties.

5 24. Defendant have failed to reimburse Plaintiff and the aggrieved employees for the
6 cost of using their cellular telephone for work and personal vehicles that were not provided by
7 Defendant but were necessary for the performance of Plaintiff and the aggrieved employees' job
8 duties. Defendant required that Plaintiff and aggrieved employees be available by cell phone when
9 out of office and answer/use their cell phones while working, and this was necessary to perform
10 their job duties.

11 25. These cell phones were not provided by Defendant, and Defendant failed to
12 reimburse Plaintiff and the aggrieved employees for the costs associated with using these personal
13 cell phones.

14 26. Additionally, Defendant required Plaintiff and the aggrieved employees to travel
15 between buildings to perform work tasks. Defendant did not reimburse Plaintiff and the aggrieved
16 employees for their vehicle use for travel between buildings at Defendant's job sites during the
17 course of a work shift, in violation of California law. By failing to provide Plaintiffs and the
18 aggrieved employees with the necessary cell phone and transportation reimbursement, Defendants
19 have burdened Plaintiff and the aggrieved employees with the cost of cell phones and using their
20 own vehicles to perform required work.

21 27. As a result of the unlawful acts of Defendant, Plaintiff and the aggrieved employees
22 have been deprived of reimbursement in the amounts to be determined at trial, and are entitled to
23 recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

24 28. Defendant's violation of Labor Code § 2802 was all done on a regular and
25 consistent basis.

26 29. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code §
27 2699, et seq. because of Defendant's violation of Labor Code § 2802; Wage Order 5-2001; and
28 California Code of Regulations, Title 8, Section 11050, which call for civil penalties.

30. For each such penalty, Plaintiff and the aggrieved employees are entitled to penalties in an amount to be shown at trial, subject to the following formula:

a. \$100 for the initial violation per employee per pay period.

b. \$200 for each subsequent violation per employee per pay period.

31. These penalties shall be allocated seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the affected employees.

32. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded a notice letter to the LWDA¹ and mailed a letter by certified mail to Defendant's entity address, which is 811-A Camarillo Springs Road, Camarillo, CA 93012, as proscribed by the Code on September 26, 2023, describing Defendant's conduct in violation of Labor Code § 2802 (*see* Exhibit "1.") Plaintiff also obtained an e-filing confirmation from the LWDA confirming receipt of the notice (*see* Exhibit "2").

33. As no letter evidencing the LWDA's intention to investigate was received by Plaintiff's Counsel within sixty-five (65) calendar days, Plaintiff is entitled to commence a civil action as though the LWDA had not chosen to investigate pursuant to Labor Code §2699.3(a)(2)(A). Plaintiff will also provide the LWDA with a filed-stamped copy of the First Amended Representative Action Complaint immediately.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For penalties and other relief pursuant to Labor Code §2699, et seq. for Plaintiff and all other aggrieved employees for Defendant's violation of Labor Code § 2802; Wage Order 5-2001; and California Code of Regulations, Title 8, Section 11050.

2. An award providing for payment of costs of suit;

3. An award of attorneys' fees; and

4. Such other and further relief as this Court may deem proper and just.

DEMAND FOR JURY TRIAL

¹ Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California Labor and Workforce Development Agency / Department of Industrial Relations website (<https://dir.tfaforms.net/308>).

1 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.
2

3 DATED: December 4, 2023

KINGSLEY & KINGSLEY, APC

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5 By: 

Liane Katzenstein Ly

6 Attorneys for Plaintiff and the aggrieved employees
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EXHIBIT "1"

KINGSLEY & KINGSLEY

| L A W Y E R S |

September 26, 2023

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Saalex Corp.
811-A Camarillo Springs Road
Camarillo, CA 93012
Via Certified Mailing #: 7015 0640 0003 6593 1721

Saalex Corp.
C/O Agent for Service of Process
Travis Mack
811-A Camarillo Springs Road
Camarillo, CA 93012
Via Certified Mailing #: 7015 0640 0003 6593 1691

Re: Sonny Bernal v. Saalex Corp.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents Sonny Bernal (“Plaintiff”) and a proposed group of current and former employees working for Saalex Corp. (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All persons who are employed or have been employed as an exempt or non-exempt worker by Saalex Corp., in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present. (“aggrieved employees”).

In addition, Labor Code § 2802 provides that an 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. Defendant has failed to reimburse Plaintiff and aggrieved employees the cost of using their personal cell phones and personal vehicles for business related purposes. Defendant required

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

September 26, 2023

Page 2 of 2

that Plaintiff and the aggrieved employees be available by cell phone when out of office and answer/use their cell phones while working, and this was necessary to perform their job duties. These cell phones were not provided by Defendant, and Defendant failed to reimburse Plaintiff and the aggrieved employees for the costs associated with using these personal cell phones. Additionally, Defendant required Plaintiff and all aggrieved employees to travel between buildings to perform work tasks. Defendant did not reimburse Plaintiff and the aggrieved employees for their vehicle use for travel between buildings at Defendant's job sites during the course of a work shift, in violation of California law. By failing to provide Plaintiff and all aggrieved employees with the necessary cell phone and transportation reimbursement, Defendants have burdened Plaintiffs and the aggrieved employees with the cost of cell phones and using their own vehicles to perform required work.

Further, under Labor Code § 2699.3(c)(2)(A), Defendant may cure the alleged violations within thirty-three (33) calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code § 2802 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Liane Katzenstein Ly

[LKL/lis]

- Cc:
1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/308>
 2. Abramson Labor Group, 11846 Ventura Blvd., Suite 100, Studio City, CA91604

EXHIBIT "2"



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *	Your Last Name *	Firm Name (if any) *	Your Email Address *
Liane	Ly	Kingsley & Kingsley, APC (Enter "in pro per" if you are representing yourself)	service@kingsleykingsley.com
Your Street Name, Number and Suite/Apt *		Your Mobile Phone Number	
16133 Ventura Blvd Suite		8189908300	
Your City *	Your Work Phone Number		
Encino	8189908300		
Your State *			
California			
Your Zip/Postal Code *			
91436			

Plaintiff Information

Plaintiff/Aggrieved Employee Name *	Plaintiff/Aggrieved Employee Occupation *
Sonny Bernal	Security Officer

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type	Employer Name *
Corporation	Saalex Corp. Maximum 80 Character Limit
Employer Street Name, Number and Suite/Apt *	Employer City *
811-A Camarillo Springs Road	Camarillo
Employer State *	Employer Zip/Postal Code *
California	93012
Employer Industry *	Employer Industry for "Other" *
Other	Engineering and Informati

Add additional defendants

- ☐ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☐ Overtime
- ☐ Not paid for all hours worked
- ☐ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☐ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☐ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☐ Other

Child Labor – Specify Ages

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

- ☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Billing Last Name *

This field is required.

Billing Email *

Billing Phone

Billing Street Name, Number and Suite/Apt *

Billing City *

Billing State *

Billing Zip/Postal Code *

Credit Card Type *

Credit Card Number *

CVV Number *

Credit Card Expiration Month *

mm

Credit Card Expiration Year *

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

 LWDA Letter ...alex Corp.pdf

Other Attachment – (if any) (must be a .pdf)

 No file chosen[Add Another Attachment](#)Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Tuesday, September 26, 2023 8:34 AM
To: Service Email
Subject: Thank you for submission of your PAGA Case.

External Email!

9/26/2023

LWDA Case No. LWDA-CM-983763-23
Law Firm : Kingsley & Kingsley, APC
Plaintiff Name : Sonny Bernal
Employer: Saalex Corp.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C01%7CLealie%40kingsleykingsley.com%7Ceda2a41e94c147cd823c08dbbea6061d%7C121a7875db4c0fb25c5baf6c6ac7a5%7C1%7C0%7C638313392526671730%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=hthnP7qb%2Bo7ScQY%2FU30mIRWHgsEapKoLqsmfl3ZmiRs%3D&reserved=0

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Tuesday, September 26, 2023 8:34 AM
To: Service Email
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation

External Email!

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-983763-23

Order Number: ORD-000253288

Total:\$75.00

Card Type: Master Card

Date: 9/26/2023

Billing Information

Name: Eric Kingsley

Email: service@kingsleykingsley.com

Billing Address:

16133 Ventura Blvd Suite 1200

Encino, California

91436