

D.LAW, INC.
Emil Davtyan (SBN 299363)
Emil@d.law
David Yeremian (SBN 226337)
d.yeremian@d.law
David Keledjian (SBN 309135)
d.keledjian@d.law
Enoch J. Kim (SBN 261146)
e.kim@d.law
Kevin Burns (SBN 352713)
k.burns@d.law
Norayr Zakaryan (SBN 356913)
n.zakaryan@d.law
450 N Brand, Blvd, Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Fax: (818) 962-6469

Attorneys for Plaintiff HUMBERTO MONTOYA,
on behalf of himself and all others similarly situated, and
the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

HUMBERTO MONTOYA, on behalf of
himself, all others similarly situated, the
State of California, and the general public,

Plaintiff,

vs.

EAST BAY TIRE CO., a California
Corporation, EXPRESS SERVICES, INC., a
Colorado Corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No. 23CV008841

Assigned for All Purposes To:

Hon. Jill H. Talley
Dept.: 23

**DECLARATION OF ENOCH J. KIM IN
SUPPORT OF PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

[filed concurrently with Plaintiff's Notice of
Motion and Motion; Declaration of Jodey
Lawrence; and [Proposed] Order]

Date: January 23, 2026
Time: 9:00 a.m.
Dept.: 23

Original Complaint filed: September 20, 2023
First Amended Complaint: November 22, 2023

Trial Date: None set

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1 and to East Bay Tire. The copies of the PAGA Notices sent on September 20, 2023, and on
2 November 16, 2023, are attached hereto as **Exhibit 2**.

3 6. On or about September 20, 2023, Plaintiff filed a wage and hour class action against
4 Defendant in the Superior Court of the State of California for the County of Sacramento, Case No.
5 23CV008841, formally asserting claims for: (1) Failure to Provide Meal Periods (Labor Code §§
6 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Labor Code §§ 204, 223, 226.7
7 and 1198); (3) Failure to Pay Hourly Wages and Overtime (Labor Code §§ 223, 510, 1194, 1194.2,
8 1197, and 1198); (4) Failure to Pay Proper Sick Pay (Labor Code § 246); (5) Failure to Provide
9 Accurate Written Wage Statements (Labor Code § 226(a)); (6) Failure to Timely Pay All Final
10 Wages (Labor Code §§ 201, 202 and 203); (7) Unfair Competition (Business & Professions Code
11 §§ 17200 et seq.). On November 23, 2023, by stipulation, Plaintiff filed a First Amended Complaint
12 (“FAC” or “Operative Complaint”) to add a claim for civil penalties pursuant to PAGA. (Exh. 1, ¶
13 B.)

14 7. After initiating the Action, the Parties met and conferred regarding the allegations in the
15 Class Action Complaint and PAGA Notices, and the enforceability of an arbitration agreement
16 signed by Plaintiff.

17 8. As a result of those discussions, Plaintiff agreed to request dismissal of the Class claims
18 without prejudice, which was entered by the Court on January 31, 2024.

19 9. Prior to mediation, Plaintiff conducted comprehensive informal discovery and Defendant
20 provided a sampling of time and pay records and time card reports of Aggrieved Employees. PAGA
21 Counsel also obtained copies of Defendant’s 2023 and 2024 Employee Handbooks containing
22 Defendant’s policies, including wage and hour policies, practices and procedures, timekeeping
23 procedures, meal and rest break policies, business expense reimbursement policy. The information
24 and data exchanged by Plaintiff and Defendant prior to and during mediation and settlement
25 negotiations were sufficient to reliably assess the merits of the Parties’ respective positions.

26 **SETTLEMENT NEGOTIATIONS AND TERMS**

27 10. On May 9, 2025, the Parties attended an all-day mediation with Lonnie Giamela. With
28 the assistance of a highly respected wage and hour mediator, the Parties agreed to the general terms

1 for settling this Action that were finalized in the long-form PAGA Settlement Agreement now
2 before the Court for approval.

3 11. The Parties believe and agree that the Settlement provides for a fair, adequate, and
4 reasonable resolution of the Action and have arrived at the Settlement after extensive, arm's length
5 negotiations, considering all relevant factors, present and potential. PAGA Counsel believes that
6 the Settlement confers real benefits upon Plaintiff and the Aggrieved Employees and that an
7 independent review of the Settlement by the Court in the approval process will confirm this
8 conclusion.

9 12. For purposes of the Settlement, Aggrieved Employee or Aggrieved Employees are
10 defined as: "all current and former non-exempt employees who worked for East Bay Tire in
11 California at any time from September 21, 2022, through July 1, 2025 (the "PAGA Period")." (Exh.
12 1, ¶ H.) Based on its records, Defendant estimates that there are approximately 167 Aggrieved
13 Employees who worked a total of 6,919 pay periods during the PAGA Period as of the date of
14 mediation. (Exh. 1, ¶ 13.) Should the actual number of pay periods worked by the Aggrieved
15 Employees exceed 6,919 by more than 10% greater than this figure (i.e., if there are 7,611 or more
16 total pay periods), then Defendant shall pay an additional sum proportionate to the increase in the
17 pay periods over 10% (for example, if the number of pay periods is 7,612, Defendant shall pay an
18 additional 1/7,611 of the PAGA Settlement Amount).. (Exh. 1, ¶ 12.)

19 13. The Settlement Agreement requires Defendant to pay a maximum, non-revisionary
20 settlement amount of \$165,000.00 in full and final settlement of all claims alleged in the Operative
21 Complaint and PAGA Notices (the "Total Settlement Amount"). (Exh. 1, ¶¶ 2 and 4.1.) The Total
22 Settlement Amount will be allocated as follows, pending Court approval:

- 23 a) Attorneys' fees in the amount not to exceed 35% of the Total Settlement Amount,
24 which is currently estimated to be \$57,750.00 ("Plaintiff's Counsel Award"), and
25 litigation costs of \$16,016.73 ("Litigation Expenses Payment"); (Exh. 1, ¶¶ 3.3
26 and 5.);
- 27 b) Administration costs in the amount of \$3,950.00 to be paid to the Administrator
28 ("Settlement Administration Costs"), Phoenix Class Action Administration

Solutions (“Phoenix” or “Settlement Administrator”), which are the reasonable costs and fees of administration of this Settlement to be paid from the Total Settlement Amount, including but not limited to: (i) preparing and submitting to PAGA Members, the Parties, and government entities all appropriate tax filings and forms; (ii) computing the amount of and distributing Individual Settlement Awards, the Plaintiff’s Counsel Award, and the LWDA Payment; and (iii) preparing and submitting filings required by law in connection with the payments required by the Settlement; (Exh. 1, ¶ 3.4.); and

- c) The remainder of the Total Settlement Amount (the “Net Settlement Amount” or “PAGA Penalties”) after deducting the above costs is approximately \$87,283.27 and shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% (\$65,462.45) being paid to the LWDA (the “LWDA PAGA Payment”) and 25% (\$21,820.82) being paid to the Aggrieved Employees on a pro-rata basis (“Individual Settlement Awards”). (Exh. 1, ¶¶ 3.5 and 4.1-4.6.) The estimated average that each Aggrieved Employee will receive per PAGA Pay Period is \$130.66 (dividing \$21,820.82 with the total estimated number of Aggrieved Employees (167)). The estimated amount that each Aggrieved Employee will receive per PAGA Pay Period is \$3.15.

14. PAGA Members shall not be required to submit a claim in order to receive an Individual Settlement Award, and no portion of the Total Settlement Amount shall revert to Defendant or result in an unpaid residue. (Exh. 1, ¶ 4.1.) Each PAGA Member will receive an Individual Settlement Award. (Exh. 1, ¶ 4.2.) Individual Settlement Award payments shall be made by check and shall be made payable to each PAGA Member as set forth in the Settlement Agreement. (Exh. 1, ¶ 4.3.) The Settlement Administrator shall issue an IRS Form 1099 to each PAGA Member for the portion of his or her Individual Settlement Award. (Exh. 1, ¶ 4.4.) If any Individual Settlement Award check remains uncashed after one hundred and eighty (180) calendar days from the date the check is issued, such check(s) will be voided by the Settlement Administrator, and the monies will

1 be deposited with the California Controller's Unclaimed Property Fund in the name of the PAGA
2 Member thereby leaving no "unpaid residue" subject to the requirements of California Code of
3 Civil Procedure Section 384, subd. (b). (Exh. 1, ¶ 4.5.)

4 15. After soliciting and reviewing three bids from potential administrators, the Parties
5 selected Phoenix to handle the notice and administration of the Settlement based on the
6 competitiveness of their bid, their competency in administering settlements, and their
7 responsiveness to the Parties' counsel. Pursuant to the Settlement Agreement, the administration
8 costs shall not exceed \$3,950.00. (Kim Decl., ¶ 3.4.)

9 16. The Settlement Agreement defines "Released Parties" as "East Bay Tire and its agents,
10 officers, employees, directors, owners, subsidiaries, DBA's, affiliates and parent companies, (the
11 "Released Parties")." (Exh. 1, ¶ 12.1.)

12 17. Upon the date Defendant fully funds the Total Settlement Amount, Plaintiff and PAGA
13 Members fully release and discharge the Released Parties from any and all claims for civil penalties
14 under the PAGA for any violations of the Labor Code or Wage Orders that were alleged by Plaintiff
15 in the Operative Complaint, or that reasonably could have been alleged based on the facts asserted
16 in the Operative Complaint or Plaintiff's notices to the LWDA, including claims for alleged
17 violations of Industrial Welfare Commission Wage Order and California Labor Code sections 201,
18 202, 203, 204, 210, 223, 226, 226.7, 246, 510, 512, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197,
19 1199, 2802, and the related IWC Wage Order No. 1-2001 (the "Released PAGA Claims"), during
20 the PAGA Period. (Exh. 1, ¶ 12.1.)

21 18. From PAGA Counsel's review of the facts, strengths, and weaknesses of the case, the
22 risks and delays posed by further litigation, and PAGA Counsel's own prior litigation experience,
23 PAGA Counsel believes that the recovery for each Aggrieved Employee is fair and reasonable
24 taking into consideration the amounts received in other PAGA actions, the risks inherent in
25 litigation of this genre, and the reasonable tailoring of each Aggrieved Employee's claim to the
26 settlement award he or she will receive. Further, and based on the settlement negotiations, which
27 were extensive and conducted in good faith and at arm's length between attorneys with substantial
28 experience litigating PAGA actions, the Settlement was the product of a non-collusive settlement

1 process in which the parties were forced to make significant compromises in the interest of reaching
2 a full and complete settlement of the lawsuit.

3 **THE STRENGTH OF PLAINTIFF'S CASE**
4 **IN LIGHT OF THE SETTLEMENT AMOUNT**

5 19. Plaintiff alleges that Defendant violated various provisions of California law and seeks
6 civil penalties for the foregoing violations pursuant to PAGA. Under Labor Code § 2699,
7 specifically, Plaintiff alleged that Defendant:

- 8 • Failed to pay the Aggrieved Employees minimum wages, including overtime hours at
9 statutory and/or agreed rates. Specifically, Plaintiff alleges that Plaintiff and Aggrieved
10 Employees were consistently required to perform work, off-the-clock, for which they
11 were not paid wages. Plaintiff alleges that Defendant required Plaintiff and Aggrieved
12 Employees to perform work-related tasks during unpaid meal periods, for which no
13 wages were paid. Furthermore, Plaintiff alleges that Defendant required Plaintiff and
14 Aggrieved Employees to remain on-call outside of their usual scheduled shifts, and
15 remain readily available to work, immediately upon Defendant's request, which resulted
16 in Plaintiff and Aggrieved Employees not being left free and unrestricted during on-call
17 working hours, and were not free to pursue personal interests without restriction.
18 Plaintiff alleges that Defendant failed to pay stipends for either controlled or
19 uncontrolled on-call or stand-by working hours.
- 20 • Failed to pay Plaintiff and Aggrieved Employees at proper overtime and double-time
21 rates of pay. Plaintiff alleges that Plaintiff and Aggrieved Employees earned
22 commission wages and/or performance-based non-discretionary bonus wages under
23 Defendant's employ. However, Plaintiff alleges that these earnings were never factored
24 into their regular rates of pay, and respective overtime and double-time rates of pay.
- 25 • Failed to provide the Aggrieved Employees with compliant meal periods. Plaintiff
26 alleges that Plaintiff and Aggrieved Employees were denied the opportunity to take
27 timely meal periods due to understaffing and heavy workloads, and were required to
28 keep working during meal breaks. Furthermore, Plaintiff alleges that Defendant failed

1 to pay Plaintiff and Aggrieved Employees premium wages for each meal and rest period
2 denied.

- 3 • Failed to provide the Aggrieved Employees with compliant rest periods as they
4 frequently received interrupted, shortened, or no rest periods. Plaintiff alleges that
5 Defendant required Plaintiff and Aggrieved Employees to continue working through
6 their rest breaks due to excessive workload and to maintain and monitor their cellular
7 phones during breaks.
- 8 • Failed to pay Plaintiff and Aggrieved Employees proper sick pay. Additionally, Plaintiff
9 alleges that the sick pay paid to Plaintiff and Aggrieved Employees did not account for
10 the commission wages and/or performance-based non-discretionary bonus wages,
11 which were never factored into the rate upon which sick pay was accrued and paid.
- 12 • Failed to provide accurate wage statements as mandated by law pursuant to Labor Code
13 section 226, including the failure to include all hours worked by the Aggrieved
14 Employees.
- 15 • Failed to timely pay final wages in accordance with the Labor Code.

16 20. Defendant denied and continue to deny all of the claims made by Plaintiff in this Action
17 and contends that it complied at all relevant times in conformance with the California Labor Code
18 and all other state and federal wage laws. Defendant contends that Plaintiff and the Aggrieved
19 Employees were paid for all hours worked, that Defendant prohibited Plaintiff and the Aggrieved
20 Employees from working beyond their scheduled shifts, and that any alleged off-the-clock work
21 was performed without Defendant's knowledge and was de minimis; that Defendant provided
22 lawfully compliant meal and rest periods and that any deviations were at the voluntary election of
23 Plaintiff and/or the Aggrieved Employees and not at the request of Defendant or due to work
24 requirements; that Defendant paid all wages due on a timely basis and using Labor Code compliant
25 instruments; that Defendant's wage statements complied with the law; and that Defendant timely
26 paid all final wages. Defendant further contends that its above defenses are supported by its written
27 policies applicable to Plaintiff and Aggrieved Employees. As a result, PAGA Counsel had to
28 appropriately discount the amount recoverable from Defendant in a settlement.

PAGA Penalties

21. The Private Attorneys General Act, Labor Code § 2699 *et seq.*, allows Plaintiff to obtain civil penalties on behalf of themselves and other aggrieved employees for Defendant's violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the LWDA, with the remaining twenty-five (25) percent allocated to the affected employees. However, under *Amaral v. Cintas*, 163 Cal. App. 4th 1157, 1207-09 (2008) the Court held that a lower penalty amount of \$100 per violation applies in the absence of a determination that a violation actually occurred.

22. Plaintiff estimated that the maximum potential exposure on the PAGA claim is \$691,900.00, calculated by multiplying the total number of PAGA pay periods (6,919) by \$100 per violation. Plaintiff's calculation of the total potential exposure on the PAGA claim was based on one PAGA penalty per pay period (i.e., Plaintiff did not stack the PAGA penalties in his damages calculation).

23. Case law supports the notion that it is inappropriate to "stack" penalties for multiple violations, particularly when those violations all stem from the same alleged "injury" *Aguirre v. Genesis Logistics*, 2015 U.S. Dist. LEXIS 78748 (citing *Villacres v. ABM Indus., Inc.*, 189 Cal.App.4th 562, 577 (2010)). ("One injury gives rise to only one claim for relief...The violation of one primary right constitutes a single cause of action."; *Crowley v. Katleman*, 8 Cal. 4th 666, 681-82) (1994); *Li v. A Perfect Day Franchise, Inc.*, 2012 WL 2236752, *17 (N.D. Cal.2012) ("There is no authority that "would permit double recovery of essentially the same penalties.")

24. PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (See *Thurman v. Bayshore* (2012)

203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision) (emphasis added); see also *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018) (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally starting minutes after the fifth hour of work); *Sanchez v. McDonald's Corp.* (2017), LASC Case No. No. BC 499888 (98% reduction from \$41 million to \$775,000); *Ghrdilyan v. RJ Financial* (2012), LASC Case No. BC430633 (94% reduction from \$5.4 million to \$325,000); *Fleming v. Covidien, Inc.* (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from \$2.8 million to \$375,000).). In departing from the \$100/pay period calculation to arrive at the \$165,000.00 Total Settlement Amount in this case, Plaintiff considered what the realistic potential exposure could be and why the Court may reduce any eventual recovery at its discretion, including Defendant's defenses to the claims and the potential manageability issues with PAGA claims at trial. Based on those considerations, Plaintiff applied a discount of 70% to the maximum potential exposure (which equates to \$30 penalty per pay period) to get a realistic potential exposure of \$207,570.00 (6,919 pay periods x \$30 penalty per pay period).

25. The Total Settlement Amount of \$165,000.00 is approximately 79.4% of the realistic potential exposure of \$207,570.00. This is an excellent result for the State and Aggrieved Employees in light of the strengths and weaknesses of the case and the risks and delays posed by further litigation.

REQUEST FOR ATTORNEYS' FEES AND COSTS

26. Pursuant to the Settlement Agreement, PAGA Counsel is requesting an award of attorneys' fees in the amount of **\$57,750.00** and an award of litigation costs to PAGA Counsel of **\$16,016.73**, which is lower than the requested \$20,000.00 "not-to-exceed" amount in the Settlement Agreement. D.Law, Inc.'s cost log for this matter is attached hereto as **Exhibit 3**.

27. This request is fair, reasonable, and adequate to compensate PAGA Counsel for the substantial work they have put into this case and, moreover, the risk they assumed by taking it in the first place. The attorneys' fees award is intended to reimburse PAGA Counsel for all uncompensated work that they have already done and for all the work they will continue to do in carrying out and overseeing the notification to the Aggrieved Employees, communicating with

1 Aggrieved Employees regarding their claims, and assisting in the administration of the Settlement
2 if it is approved.

3 28. Throughout this case, PAGA Counsel have borne, and continue to bear, the entire risk
4 and cost of litigation associated with this Action on a purely contingency basis. As a result, PAGA
5 Counsel have yet to receive any compensation for the amount of time and money invested in the
6 case to date.

7 29. Contingent-fee cases present the very real risk of working hundreds if not thousands of
8 hours that may never be entirely compensated. Moreover, while the case is being litigated, counsel
9 must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases pay the
10 out-of-pocket expenses incurred on the plaintiff's behalf. And the prospect of a court-awarded fee
11 does not greatly reduce the risk posed by these cases. In many cases, the prospect is nothing more
12 than a potential that never materializes. First, you must win the case to get a court-awarded fee;
13 even those cases that seem strongest at the onset can be lost and sometimes are lost. Second, there
14 are always the pitfalls and unforeseen obstacles that arise along the way, such as settlement offers
15 that the client may accept without ensuring that we receive a reasonable fee or changes in the law
16 that substantially affect the merits of the case, or other uncertainties involving the client. Finally,
17 there is the great risk inherent in advancing tens if not hundreds of thousands of dollars in out-of-
18 pocket expenses. If that money were to be invested in some sort of financial investment, one would
19 expect a reasonable rate of return on that investment. Here, however, the best we can hope to
20 recover is our money, and then only if we are substantially successful; if we are not, all or part of
21 this "investment" can be lost.

22 30. PAGA Counsel is well acquainted with the contingent-fee market throughout California,
23 particularly as it pertains to PAGA and class action litigation. PAGA Counsel has negotiated
24 numerous contingency-fee agreements with plaintiffs, both as individuals and as representatives in
25 class-action and PAGA suits. Many of those agreements required that counsel receive a fee under
26 certain scenarios that exceeds 35% of the recovery.

27 31. PAGA counsel in contingency-fee cases have received attorneys' fees up to 40% of the
28 gross settlement amount. See *Crandall v. U-Haul* (Los Angeles County Super. Ct., Case No.

1 BC178775), the Honorable Steven Czuleger awarded a 40% attorney fee request in an overtime-
2 exemption class action; in *Bushnell v. Creinar, Inc.* (Orange County Super. Ct., Case No. 657778),
3 the Honorable Donald E. Smallwood awarded attorneys' fees in the amount of 38%; in *Abzug v.*
4 *Kerkorian* CA000981 (Los Angeles County Super. Ct., November 1990), the Honorable R. William
5 Schoettler awarded a 45% fee; in *Haitz v. Meyer, et al.*, Alameda County Super. Court, 8-20-1990
6 No. 572968-3, the court awarded a 40% fee; in *Elliott v. Clothestime* (Orange County Super. Ct.,
7 Case No. 01-CC00333) the Honorable Jonathan Cannon awarded a 40% fee in a wage-and-hour
8 class action which had not yet proceeded to the class certification stage; in both *Rippee v. Boston*
9 *Market Corporation*, Case No.: 05 CV 1359 BTM (JMA) and *Barile v. Boston Market Corporation*,
10 Case No.: 05 CV 1360 BTM (JMA), the Honorable Judge Barry T. Moskowitz awarded a 40% fee
11 to plaintiffs' counsel in wage-and-hour class actions that had not proceeded to the class-certification
12 stage.

13 32. Moreover, PAGA Counsel spent substantial time on this matter. Aside from drafting the
14 initial complaint, PAGA Counsel conducted informal discovery, hired an expert to review and
15 analyze a sampling of time and pay records and time card reports of Aggrieved Employees,
16 reviewed and analyzed Defendant's 2023 and 2024 Employee Handbooks containing Defendant's
17 policies, including wage and hour policies, practices and procedures, timekeeping procedures, meal
18 and rest break policies, business expense reimbursement policy, relevant policies and other
19 documentation, researched the applicable law and potential defenses, constructed damage models
20 based on interpretations of California law, reviewed information provided by Defendant at the
21 mediation, engaged in meet and confer efforts with Defendant, drafted and revised the settlement
22 agreement, and drafted this Motion. PAGA Counsel from D.Law, Inc. conservatively estimates that
23 it invested at least 101.7 hours of attorney time in this matter. As a Senior Counsel, my current
24 billing rate is \$1,045 (17 years out of law school, Laffey Matrix rate of \$948.00), and I have spent
25 approximately 12 hours in this matter with a lodestar amount of \$12,540.00. Senior Attorney David
26 Keledjian's current billing rate is \$925.00 (9 years out of law school, Laffey Matrix rate of
27 \$839.00), and he has spent approximately 2.6 hours in this matter with a lodestar amount of
28 \$2,405.00. Attorney David Arakelyan's current billing rate is \$585.00 (4 years out of law school,

1 Laffey Matrix rate of \$581.00), and he spent approximately 37.9 hours in this matter with a lodestar
2 amount of \$22,171.50. Associate Attorney Kevin Burns's current billing rate is \$475.00 (2 years
3 out of law school, Laffey Matrix Rate of \$473.00), and he spent approximately 30.6 hours in this
4 matter with a lodestar amount of \$14,535.00. Associate Attorney Norayr Zakaryan's current billing
5 rate is \$475.00 (1 year out of law school, Laffey Matrix rate of \$473.00), and he spent
6 approximately 18.6 hours in this matter with a lodestar amount of \$8,835.00. The hourly rates for
7 each attorney listed above are the reasonable and usual hourly rates charged by that attorney for
8 class action and PAGA litigation. The total lodestar for PAGA Counsel is \$60,486.50, above the
9 fee request of \$57,750.00 and requires no **multiplier**. A true and correct copy of PAGA Counsel's
10 entry of attorney-hours spent for each task is attached hereto as **Exhibit 4**.

11 33. In light of the foregoing, the fee request in an amount equal to 35% of the settlement in
12 this case is well within the bounds that have been established by the above-cited authority.

13 **EXPERIENCE AND VIEWS OF COUNSEL**

14 34. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases,
15 including class actions and PAGA actions on behalf of employees and others who have had their
16 rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs'
17 counsel of record in numerous wage and hour and employment class action and PAGA action cases
18 pending in both state and federal court.

19 35. D.Law is well-qualified and has ample experience, knowledge, and resources to act as
20 counsel and represent Plaintiffs and the Allegedly Aggrieved Employees in this action. Our practice
21 is exclusively focused on employment matters and representing plaintiffs in wage and hour actions
22 with the same or similar causes of actions brought forth in the matter pending before this Court.

23 36. D.Law has litigated and successfully resolved many wage and hour class action cases
24 involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La Rosa
25 v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787), Harvey v.
26 Bed Bath & Beyond of California Limited Liability Company (Superior Court of California in
27 Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of California in
28 Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in Fresno,

1 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-cv-01084-
2 L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los Angeles,
3 BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los Angeles, BC 632
4 276), Hawkins v. AvalonBay Communities (Superior Court of California in Santa Clara,
5 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of California in Los
6 Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al. (Superior Court of
7 California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family, Inc. (Superior Court of
8 California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v. Victor Valley Global et
9 al. (Superior Court of California in San Bernardino, CIVDS1709289), Puerta-Gildardo v. Real
10 Time Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445),
11 Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836),
12 Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK),
13 Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO),
14 Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA),
15 Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v.
16 The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau
17 v. PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra
18 Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior
19 Court of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare
20 California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v.
21 Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v.
22 ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC
23 Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford
24 v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles,
25 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-
26 18-571421), Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307),
27 Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687),
28 Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County,

1 30-2018-00974707-CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home
2 (Superior Court of California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries,
3 Inc. (Superior Court of California in Los Angeles, 19STCV38096), Singletary v. Motel 6 Operating
4 LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF Watsonville
5 East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868), Stephenson v.
6 Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693), Bacerra v. Hugo
7 Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL),
8 Walker v. Ariat International, Inc. (Superior Court of California in Alameda, HG19026439), Orr v.
9 Petvet Care Centers (California) Inc. (Superior Court of California in Santa Clara, 19CV354063),
10 Jimenez v. OEC Distribution Services, Inc. (Superior Court of California in San Bernardino,
11 CIVDS1915743), Virdi v. Absolute Security International (Superior Court of California in San
12 Bernardino, CIVDS 1909589), Raj v. First Transit, Inc (Superior Court of California in Sacramento,
13 34-2021-00295895-CU-OE-GDS), Marchbanks v. Torrid Administration, Inc. (Superior Court of
14 California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

15 37. I am Senior Counsel at D.Law where I manage the class action and PAGA settlement
16 department. I was admitted to the California Bar in December 2008. I received my J.D. from
17 Pepperdine University School of Law and B.S. from University of Southern California. Since
18 graduating from law school, I have dedicated virtually my entire career on the practice of
19 employment law. I have practiced employment law from the plaintiff's side, defense side, and from
20 an in-house position. I have significant experience specifically working on wage and hour class
21 actions from the plaintiff's side as well as the defense side, with the majority of my experience
22 coming from the plaintiff's side.

23 38. The collective experience of the D.Law attorneys in litigating employment wage and
24 hour matters has been integral in identifying legal issues, evaluating the strengths and weaknesses
25 of a case, and generally negotiating fair and reasonable class and representative action settlements.
26 This experience is helpful in assessing the reasonableness of settlements such as the one at issue
27 here. Based on our experience, PAGA Counsel concluded that this lawsuit could not have been
28 settled on better terms than provided under the present settlement agreement.

39. In sum, PAGA Counsel are experienced in employment class action and PAGA litigation and are adequate to represent the Aggrieved Employees in the instant action.

SUMMARY

40. The parties agreed to use Phoenix as the third-party settlement administrator in this case. Phoenix will be responsible for updating the addresses for the Aggrieved Employees, mailing the Notice of PAGA Settlement and Release of Claims (“Notice of Settlement”) and calculating and distributing the settlement checks, among other duties. Phoenix capped its fees at \$3,950.00 for administering the Settlement, and based on PAGA Counsel’s experience in other class and PAGA settlements, Phoenix’s costs for administering this Settlement are fair and reasonable. The Notice of Settlement is attached hereto as **Exhibit 5**.

41. On October 22nd, 2025, my office submitted the proposed Settlement and this Motion to the LWDA. Attached hereto as **Exhibit 6** is a true and correct copy of the confirmatory email my office received from the LWDA after submission of the Settlement and Motion.

42. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 22nd day of October, 2025, at Glendale, California.


Enoch J. Kim

EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (“Agreement”) is made and entered into between Plaintiff Humberto Montoya, as an individual, and in a representative capacity on behalf of the California Labor and Workforce Development Agency (“LWDA”) and Defendant East Bay Tire Co., (“Defendant” and/or “East Bay Tire”). From time to time herein, Plaintiff and Defendant may collectively be referred to as the “Parties.”

RECITALS

A. WHEREAS, on or about September 20, 2023, Plaintiff Humberto Montoya sent a letter to the California Labor and Workforce Development Agency (“LWDA”) and to East Bay Tire giving notice of his intent to pursue a representative action pursuant to the California Labor Code Private Attorneys General Act of 2004, codified at Labor Code § 2699 *et seq.* (“PAGA”), on behalf of himself and the State of California as well as on behalf of a proposed group of allegedly aggrieved employees. In the letter, Plaintiff claimed Defendant violated the Industrial Welfare Commission Wage Order and California Labor Code sections 201, 202, 203, 204, 210, 223, 226, 226.7, 246, 510, 512, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1199, 2802, and the related IWC Wage Order No. 1-2001.

B. WHEREAS, on or about September 21, 2023, Plaintiff filed a wage and hour class action against Defendant in the Superior Court of the State of California for the County of Sacramento, Case No. 23CV008841, formally asserting claims for: (1) Failure to Provide Meal Periods (Labor Code §§ 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Labor Code §§ 204, 223, 226.7 and 1198); (3) Failure to Pay Hourly Wages and Overtime (Labor Code §§ 204, 223, 226.7, 512 and 1198); (4) Failure to Pay Proper Sick Pay (Labor Code § 246); (5) Failure to Provide Accurate Written Wage Statements (Labor Code § 226(a)); (6) Failure to Timely Pay All Final Wages (Labor Code §§ 201, 202 and 203); (7) Unfair Competition (Business & Professions Code §§ 17200 *et seq.*)

C. WHEREAS, on November 23, 2023, by stipulation, Plaintiff filed a First Amended Complaint (“FAC” or “Operative Complaint”) to add a claim for (8) Civil Penalties pursuant to California’s Private Attorney General Act (“PAGA”).

D. WHEREAS, during his employment with East Bay Tire, Plaintiff signed an arbitration agreement, including a waiver of class claims, Plaintiff requested a dismissal of the class claims without prejudice, which was entered by the Court on January 31, 2024.

E. WHEREAS, on February 7, 2024, Plaintiff submitted a demand for arbitration of his Labor Code claims on an individual basis.

F. WHEREAS, Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action and denies that the lawsuit is appropriate for representative treatment for any purpose other than settling this Action. Defendant contends, among other things, that it has complied at all times with the California Labor Code and all other state and federal wage

laws. Defendant has denied and continues to deny each and every material factual allegation and alleged claim asserted against it in the Action.

G. WHEREAS, the Parties desire to fully and finally resolve, settle, compromise, and discharge all differences and controversies between and among themselves, so as to avoid any further disputes, costs, inconveniences, or expenses of litigation;

H. WHEREAS, the “PAGA Members” or “Aggrieved Employees” are defined as: all current and former non-exempt employees who worked for East Bay Tire in California at any time from September 21, 2022, through July 1, 2025 (the “PAGA Period”);

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, it is hereby agreed by and among the Parties as follows:

1. Incorporation of Recitals. The above recitals are incorporated herein by this reference and are hereby made part of this Agreement.

2. Total Settlement Amount. As consideration for the settlement described herein and the release contained in this Agreement, and subject to Paragraph 13 below, Defendant agrees to pay the total gross maximum sum of One Hundred and Sixty-Five Thousand Dollars and Zero Cents (\$165,000.00) (“Total Settlement Amount”), subject to approval of the Court. The Total Settlement Amount includes all Individual Settlement Awards to PAGA Members, the Settlement Administration Costs, the Plaintiff’s Counsel Award, the PAGA Representative Service Award, and the PAGA Payment to the LWDA.

3. Funding and Allocation of Total Settlement Amount.

3.1 Defendant shall pay the Total Settlement Amount to the Settlement Administrator within thirty (30) days of approval of the Effective Date.

3.2 The “Effective Date” is the date that the Court’s judgment approving this settlement becomes final. For purposes of this Agreement, the judgment “becomes final” upon the last to occur of the following:

- a. The entry of a Judgment finally approving this Settlement.
- b. If an appeal has been taken or sought, seven (7) calendar days after the date the Judgment is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review, or the date the appeal(s) or other judicial review are finally dismissed (and upholding the Settlement) with no possibility of subsequent appeal or other judicial review.

3.3 Defendant will not object to Plaintiff’s Counsel’s request for reasonable attorneys’ fees for Plaintiff’s Counsel’s litigation and resolution of this Action (not to exceed \$57,750.00, or 35% of the Total Settlement Amount), plus Plaintiff’s Counsel’s expenses and costs

reasonably incurred in connection with the Action (which is currently estimated not to exceed \$20,000.00) ("Plaintiff's Counsel Award").

3.4 The Parties agree to allocate not more than \$3,950.00 toward Settlement Administration Costs, which are the reasonable costs and fees of administration of this Settlement to be paid from the Total Settlement Amount, including but not limited to: (i) preparing and submitting to PAGA Members, the Parties, and government entities all appropriate tax filings and forms; (ii) computing the amount of and distributing Individual Settlement Awards, the Plaintiff's Counsel Award, and the LWDA Payment; and (iii) preparing and submitting filings required by law in connection with the payments required by the Settlement. The Settlement Administrator is permitted to withhold its Settlement Administration Costs from the Total Settlement Amount at any time after Defendant's funding of the Total Settlement Amount.

3.5 The Net Settlement Amount is the amount remaining after deducting the Plaintiff's Counsel Award and the Settlement Administration Costs from the Total Settlement Amount. The Net Settlement Amount shall be paid, pursuant to PAGA, as follows: Seventy-five percent (75%) shall be paid to the California Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) shall be distributed to the PAGA Members on a pro rata basis, based upon their respective number of pay periods.

4. Individual Settlement Awards.

4.1 PAGA Members shall not be required to submit a claim in order to receive an Individual Settlement Award, and no portion of the Total Settlement Amount shall revert to Defendant or result in an unpaid residue.

4.2 Each PAGA Member will receive an Individual Settlement Award. Individual Settlement Awards shall be paid from the Net Settlement Amount pursuant to the formula set forth herein. The Individual Settlement Awards shall be mailed by the Settlement Administrator as set forth below in Section 8.1.

4.3 Individual Settlement Award payments shall be made by check and shall be made payable to each PAGA Member as set forth in this Agreement.

4.4 For tax purposes, one hundred percent (100%) of each Individual Settlement Award shall be allocated as penalties and shall not be subject to payroll tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each PAGA Member for the portion of his or her Individual Settlement Award.

4.5 If any Individual Settlement Award check remains uncashed after one hundred and eighty (180) calendar days from the date the check is issued, such check(s) will be voided by the Settlement Administrator, and the monies will be deposited with the California Controller's Unclaimed Property Fund in the name of the PAGA Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.6 It is expressly understood and agreed that the receipt of Individual Settlement Awards shall not entitle any PAGA Member to additional compensation or benefits

under any compensation or benefit plan or agreement in place during the period covered by the Settlement. It is the intent of the Parties that Individual Settlement Awards provided for in this Agreement are the sole payments to be made by Defendant to PAGA Members in connection with this Settlement, and that PAGA Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Awards.

5. Plaintiff's Counsel Award. Subject to Court approval, Plaintiff's Counsel will seek an award of reasonable attorneys' fees in an amount not to exceed 35% of the Total Settlement Amount, or \$57,750.00. In addition, Plaintiff's Counsel will also seek an award of litigation costs and expenses associated with Plaintiff's Counsel's prosecution of the Action, which is currently estimated not to exceed \$20,000.00. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff's Counsel for the Plaintiff's Counsel Award. Plaintiff's Counsel will provide the Settlement Administrator with a completed IRS Form W-9 in order for the Settlement Administrator to process the Plaintiff's Counsel Award. In the event that the Court reduces or does not approve the requested attorneys' fees and/or litigation costs to Plaintiff's counsel, any reduced amount shall be allocated towards the Net Settlement Amount, consistent with this Agreement, and Plaintiff shall not have the right to revoke the Settlement, and it will remain binding.

6. Timing of Settlement Payment and Distribution.

6.1 The settlement will be fully funded within thirty (30) days of the Effective Date. The Total Settlement Amount shall be allocated for payment as a release of all the PAGA claims as set forth below in "Released PAGA Claims", payment of Settlement Administration Expenses, Attorneys' Fees, and Attorneys' Expenses. All payments from the Net Settlement Amount made to the PAGA Members shall be allocated exclusively as penalties, for which the Settlement Administrator shall issue a 1099.

The Settlement Administrator shall issue the payments as set forth above within fourteen (14) calendar days of receiving payment of the Total Settlement Amount.

7. Settlement Administration.

7.1 Within thirty (30) calendar days of the Effective Date, Defendant shall provide the Settlement Administrator with the name, last known mailing address of each Aggrieved Employee, and the total PAGA pay periods for each Aggrieved Employee. The Settlement Administrator shall mail the Individual Settlement Payments to the PAGA Members via first-class regular U.S. mail along with a Notice of PAGA Settlement. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes. For each notice packet returned as undeliverable, without a forwarding address, the Settlement Administrator will perform a single computer and/or "skiptrace" search to obtain an updated address.

7.2 As this is a settlement of a PAGA claim only, the Parties agree that the PAGA Members do not have the right to exclude themselves from or object to the Settlement. Upon the date Defendant fully funds the Total Settlement Amount, Plaintiff and the LWDA will have released any claims for penalties under the PAGA only, that they may have for alleged violations of the Labor Code that are alleged or could have been alleged based on the factual

allegations in the Operative Complaint and Plaintiff's notices to the LWDA, and regardless of whether they receive and/or cash an Individual Settlement Award.

7.3 Seventy-five percent (75%) of the Net Settlement Amount constitutes the LWDA Payment. The remaining twenty-five percent (25%) of the Net Settlement Amount shall be divided among PAGA Members on a pro rata basis, based on the number of pay periods each PAGA Member was employed during the PAGA Period. The Individual Settlement Awards will be determined by dividing the Net Settlement Amount by the aggregate number of pay periods worked by all PAGA Members, resulting in the Pay Period Value (i.e., $\text{Net Settlement Amount} \div \text{Total Pay Periods} = \text{Pay Period Value}$). The Pay Period Value will then be multiplied by each PAGA Member's respective number of pay periods in order to yield the PAGA Member's Individual Settlement Award. In determining each PAGA Member's pay periods, Defendant's records will be presumed to be correct, unless a PAGA Member proves otherwise by providing credible documentary evidence. All disputes concerning pay periods will be finally resolved and decided by the Settlement Administrator in a binding determination without hearing or right to appeal. The Settlement Administrator shall determine the eligibility for, and the amounts of, each Individual Settlement Award under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of each Individual Settlement Award shall be binding upon the PAGA Members and the Parties.

7.4 The Parties agree to cooperate in the Settlement Administration process and to make all reasonable efforts to control and minimize Settlement Administration Costs.

7.5 The Settlement Administrator shall keep the Parties timely apprised of the performance of all settlement administrator responsibilities required by the Settlement.

7.6 The Parties have the right to monitor and review the administration of the Settlement to verify that the monies allocated under the Settlement are distributed in the correct amounts, as provided for in this Agreement. The Settlement Administrator shall never be empowered to make payments to Aggrieved Employee exceeding the total Net Settlement Amount or deviate from the payment formula agreed upon by the parties.

8. Reasonableness and Allocation of Settlement. Having engaged in significant formal discovery and further informal exchange of information prior to mediation, the Parties believe that this is a fair, reasonable, and adequate settlement of Plaintiff's PAGA Claim, and have arrived at this settlement through arms-length negotiations, taking into account all relevant factors, present and potential, including the legal issues involved, Defendant's ability to pay, and the uncertainty of trial. The Parties recognize and agree that the value of the claims in the PAGA Claim are difficult to determine with any certainty and are subject to differing calculations. The Parties hereby agree that the formula for allocating the Total Settlement Amount is reasonable and that the payments provided herein are designed to provide fair settlement with respect to the PAGA Claim and are consistent with the purposes of PAGA.

9. Approval of Settlement. Plaintiff shall file a Motion for Approval of PAGA Settlement with the Sacramento Superior Court. Plaintiff's attorney agrees to provide the LWDA with a copy of this Agreement and the Motion for Approval of PAGA Settlement on the same day as the filing of the same in the Sacramento Superior Court. In addition, Plaintiff's attorney will

submit a copy of the Order Granting Approval of PAGA Settlement and Judgment to the LWDA within ten (10) days of the date of its entry, as required by Labor Code section 2699(1)(3).

9.1 If, for any reason, the Court declines to approve this Agreement, the Parties agree to use their best efforts to address the issues raised by the Court and renew their request for court approval. If, for any reason, the Court does not ultimately approve this Agreement, this Agreement shall be null and void, and shall not be referred to or utilized for any purpose. In that event, Defendant shall have no obligation to make any payment under this Agreement and Plaintiff and PAGA Members will not release any claims against Defendant and the Released Parties under this Agreement. Defendant also does not waive but rather expressly reserves all rights to challenge Plaintiff's PAGA claims and allegations on all procedural and factual grounds, and to assert all applicable defenses if this Agreement is not approved by the Court.

10. Tax Treatment. Neither Plaintiff, Plaintiff's attorneys, Defendant nor Defendant's attorneys are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) PLAINTIFFS (A) HAVE RELIED EXCLUSIVELY UPON THEIR OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAVE NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) ARE NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THEM; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY PLAINTIFFS OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

11. Attorneys' Fees and Costs. The Parties agree that this Agreement resolves any claim for attorneys' fees and costs incurred in the Action or otherwise as between Plaintiff, on the one hand, and Defendant, on the other. The Parties shall each bear their own attorneys' fees and costs.

12. Scope of Release of Claims.

12.1 Scope of Release as to PAGA Members. Upon the date Defendant fully funds the Total Settlement Amount, Plaintiff and PAGA Members fully release and discharge East Bay Tire and its agents, officers, employees, directors, owners, subsidiaries, DBA's, affiliates and parent companies, (the "Released Parties"), from any and all claims for civil penalties under the PAGA for any violations of the Labor Code or Wage Orders that were alleged by Plaintiff in the Operative Complaint, or that reasonably could have been alleged based on the facts asserted in the Operative Complaint or Plaintiff's notices to the LWDA, including claims for alleged violations of Industrial Welfare Commission Wage Order and California Labor Code sections 201, 202, 203, 204, 210, 223, 226, 226.7, 246, 510, 512, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1199, 2802, and the related IWC Wage Order No. 1-2001 (the "Released PAGA Claims"), during the PAGA Period.

12.2 The Parties hereto represent and warrant that they have the authority to enter into this Agreement on their own behalf and to bind all persons or entities who may claim through them.

13. Escalator Clause. Defendant has represented that the Aggrieved Employees have worked a total of no greater than 6,919 total pay periods during the PAGA Period. Should the actual number of pay periods worked by the Aggrieved Employees exceed 6,919 by more than 10% greater than this figure (i.e., if there are 7,611 or more total pay periods), then Defendant shall pay an additional sum proportionate to the increase in the pay periods over 10% (for example, if the number of pay periods is 7,612, Defendant shall pay an additional 1/7,611 of the PAGA Settlement Amount). If the Total Settlement Amount is increased pursuant this provision, Plaintiff's attorney's fees shall remain 35% of the increased Total Settlement Amount.

14. No Admission of Liability. Defendant denies all claims alleged in this Action and deny any wrongdoing whatsoever. Neither this Agreement, nor any of its terms and conditions, nor any of the negotiations connected with it, is a concession or admission, and none shall be used against Defendant as an admission or indication with respect to any claim of any fault, concession, or omission by Defendant. The Parties agree that this Agreement will not be admissible in this or any other proceeding as evidence that Defendant is liable to Plaintiff or any PAGA Member, other than according to the terms of this Agreement.

15. Jurisdiction of the Court. Following entry of the Order Granting Approval of PAGA Settlement and Judgment, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties, Plaintiff's Counsel and Defense Counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

16. Public Comment. Prior to approval of the PAGA settlement by the Court, the parties agree that this Agreement is confidential (except for purposes of enforcement) and that neither party will issue any press release or other public or non-public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of the settlement. Other than as specifically set forth above, the parties and their counsel agree that they will not initiate or have any contact with the press, respond to any press inquiry or have any communication with the press about this case, and Plaintiff's counsel will not communicate with

other wage-hour plaintiffs' counsel about this settlement, nor utilize it in any way in their marketing or advertising materials or website, until after Approval of the settlement. The parties agree that Lonnie D. Giamela, who has assisted the parties as mediator in this case, may, at his discretion, execute a Declaration supporting the settlement, and the Court may, in its discretion, contact Mr. Giamela to discuss the settlement and whether or not the settlement is fair and reasonable.

17. Motion for Approval of PAGA Settlement. Plaintiff will prepare and provide a draft of the Motion for Approval of PAGA Settlement to Defendant at least five (5) business days prior to filing to allow Defense Counsel a reasonable opportunity to review and comment on it.

18. General Provisions.

18.1 This Agreement has been reviewed by the Parties hereto and their respective attorneys, and the Parties have had a full opportunity to negotiate the contents hereof. The Parties hereto expressly waive any common law or statutory rule of construction that ambiguities should be construed against the drafter of this Agreement.

18.2 The Parties agree that this Agreement constitutes a compromise of and full accord and satisfaction of doubtful and disputed claims and shall not be treated as an admission of liability by anyone at any time, for any purpose.

18.3 The Parties to this Agreement agree to execute such other documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement.

18.4 The Parties agree that this Agreement, along with the Confidential Individual Settlement Agreement, contain the entire agreement between them, contain full and the only consideration for the terms agreed to herein, and that the terms of this Agreement are contractual and not a mere recital.

18.5 The Parties agree that upon the occurrence of the entry of judgment or dismissal pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure section 664.6, and the Court shall retain exclusive and continuing equity jurisdiction of this Action of all Parties to the fullest extent to interpret, enforce, and effectuate the terms, conditions, intents and obligations of the Agreement.

18.6 Should any court action be filed by either party as a result of the breach of this Agreement, the prevailing party in such action shall be entitled to full reimbursement of its attorneys' fees incurred in such action.

18.7 No waiver by any party hereto of any breach of this Agreement by any other party shall operate or be construed as a waiver of any other or subsequent breach. No waiver by any party hereto of any breach of this Agreement by any other party hereto shall be effective unless it is in writing and signed by the party claimed to have waived such breach.

18.8 This Agreement may be amended only by a written instrument executed by the Parties hereto.

18.9 Should any court of competent jurisdiction determine that any term or provision of this Agreement is unenforceable, such term or provision shall be deemed to be deleted as though it had never been a part of this Agreement, and the validity, legality and enforceability of the remaining terms and provisions shall not be in any way affected or imperiled thereby.

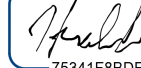
18.10 This Agreement shall be construed in accordance with the laws of the State of California.

18.11 This Agreement may be signed in counterparts by the Parties, and if so executed, each counterpart shall have the full force and effect of an original. With respect to the execution of this Agreement, a facsimile or electronic copy of a signatory's signature shall suffice and be treated as an original signature.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date this Agreement is signed.

DATED: 8/16/2025

DocuSigned by:



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Humberto Montoya
Plaintiff

DATED: August 8, 2025

Signed by:

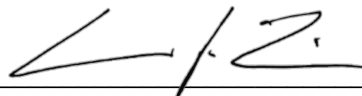


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East Bay Tire Co.
Joseph Pehanick, Chief Executive Officer

Approved As To Form:

DATED: August 20, 2025



David Yeremian
David Keledjian
Kevin Burns
D.LAW, INC.
Attorneys for Plaintiff and the Aggrieved Employees
Humberto Montoya

DATED: _____

Mollie M. Burks
Sat Sang S. Khalsa
GORDON REES SCULLY MANSUKHANI, LLP
Attorneys for Defendant
East Bay Tire Co.

18.9 Should any court of competent jurisdiction determine that any term or provision of this Agreement is unenforceable, such term or provision shall be deemed to be deleted as though it had never been a part of this Agreement, and the validity, legality and enforceability of the remaining terms and provisions shall not be in any way affected or imperiled thereby.

18.10 This Agreement shall be construed in accordance with the laws of the State of California.

18.11 This Agreement may be signed in counterparts by the Parties, and if so executed, each counterpart shall have the full force and effect of an original. With respect to the execution of this Agreement, a facsimile or electronic copy of a signatory's signature shall suffice and be treated as an original signature.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date this Agreement is signed.

DATED: _____

Humberto Montoya
Plaintiff

DATED: _____

East Bay Tire Co.
Joseph Pehanick, Chief Executive Officer

Approved As To Form:

DATED: _____

David Yeremian
David Keledjian
Kevin Burns
D.LAW, INC.
Attorneys for Plaintiff and the Aggrieved Employees
Humberto Montoya

DATED: August 8, 2025



Mollie M. Burks
Sat Sang S. Khalsa
GORDON REES SCULLY MANSUKHANI, LLP
Attorneys for Defendant
East Bay Tire Co.

EXHIBIT 2

VIA ON-LINE SUBMISSION AND MAIL:**<https://dir.tfaforms.net/128> (copy by certified mail to all Defendants)**

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

East Bay Tire Co.

Joseph Pehanick, Agent for Service of Process
2200 Huntington Drive, Unit C
Fairfield, CA 94533

Certified Mail Tracking Number: 9414-8112-0620-3628-5352-44

LWDA Case No.: LWDA-CM-982671-23

**Re: Labor Code § 2698, *et seq.* Penalties – PAGA Notice Letter to the LWDA
*Humberto Montoya v. East Bay Tire Co., et al.***

Gentlepersons:

This office represents Plaintiff Humberto Montoya (“Plaintiff”) and other similarly situated aggrieved employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 204, 210, 212, 213, 226, 226.3, 226.7, 226.8, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Unless specified below, Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated, Aggrieved Employees, and the State of California, against Defendants, Ford Motor Company, and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along Plaintiff’s Class Action Complaint, which is attached hereto and incorporated by reference herein. The Complaint is being concurrently filed in Sacramento County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The Class Action Complaint provides the details of Plaintiff’s class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.



Relevant Facts

Plaintiff was employed by Defendants as a non-exempt hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as “Aggrieved Employees”). However, with regard to the allegations under Labor Code § 226(a) only, Plaintiff expands the scope and definition of the Aggrieved Employees to all employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay. Aggrieved Employees were consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Aggrieved Employees were systemically required to perform work-related tasks during unpaid meal periods, when such meal periods were provided, for which no wages were paid.

This uncompensated time caused Aggrieved Employees to work in excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Aggrieved Employees to minimum and overtime wages, which they were systemically denied.

Additionally, Defendants failed to pay Aggrieved Employees at the proper overtime and double-time rates of pay. Aggrieved Employees earned commission wages and/or performance-based non-discretionary bonus wages under Defendants’ employ. However, these earnings were factored into nor blended into Aggrieved Employees’ regular rates of pay, and respective overtime and double-time rates of pay, when Aggrieved Employees worked in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week.

Finally, Aggrieved Employees were required to remain on-call outside of their usual scheduled shifts, and remain readily available to work, immediately upon Defendants’ requests. Aggrieved Employees were not left free and unrestricted during on-call working hours, and were not free to pursue personal interests without restriction. Aggrieved Employees were never paid stipends for either controlled or uncontrolled on-call or stand-by working hours.

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take meal periods in compliance with California Law. Specifically, due to understaffing and heavy workloads, Aggrieved Employees were denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work and were not relieved of all work duties during unpaid meal periods and were required to keep working during meal breaks.

Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants’ policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal and rest period rights; and (3) Defendants’ practice of requiring Aggrieved Employees to continue working through their meal and rest periods due to the excessive workload.

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take rest breaks in compliance with the California Law. Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants’ policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that



properly advised Aggrieved Employees of their rest period rights; (3) Defendants' policy and practice of requiring putative class members to continue working through their rest breaks.

Furthermore, Defendants failed to pay Aggrieved Employees premium pay wages at their appropriate regular rates of pay for each meal and rest period denied.

Aggrieved Employees were not provided with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing." Additionally, the wage statements issued to Aggrieved Employees were not recorded in "ink or other indelible form."

Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

Furthermore, Defendants failed to provide Aggrieved Employees with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiff's and Aggrieved Employees' wage statement were only provided in electronic format in violation of Labor Code § 226.

Finally, Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite sick time pay in accordance with California Law. Specifically, Aggrieved Employees worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Aggrieved Employees did not account for the commission wages and/or performance-based non-discretionary bonus wages, which were never factored into the rate upon which sick pay was accrued and paid

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the Class Action Complaint, the Aggrieved Employees complain of the following violations committed by Defendants:¹

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¹ Plaintiff hereby reserves the right to seek penalties on behalf of all Aggrieved Employees, for Defendants' violations of the applicable provisions of the Labor Code, suffered by Aggrieved Employees, but not directly suffered by Plaintiff under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.



Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he 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.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders 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.” Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states: “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.” The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants’ unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay. Aggrieved Employees were consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Aggrieved Employees were systemically required to perform work-related tasks during unpaid meal periods, when such meal periods were provided, for which no wages were paid.

Additionally, Aggrieved Employees were required to remain on-call outside of their usual scheduled shifts, and remain readily available to work, immediately upon Defendants’ requests. Aggrieved Employees were not left free and unrestricted during on-call working hours, and were not free to pursue personal interests without restriction. Aggrieved Employees were never paid stipends for either controlled or uncontrolled on-call or stand-by working hours.

This uncompensated time caused Aggrieved Employees to work in excess of eight (8), ten (10)



and/or twelve(12) hours a day and/or forty (40) hours a week, entitling Aggrieved Employees to minimum and overtime wages, which they were systemically denied.

Defendants have the ability to pay minimum and overtime wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Aggrieved Employees.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Aggrieved Employees consistently worked in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week. However, Aggrieved Employees were not paid overtime wages for hours worked in excess of 8 hours a day. Defendants failed to pay Aggrieved Employees at the proper overtime and double-time rates of pay. Aggrieved Employees earned commission wages and/or performance-based non-discretionary bonus wages under Defendants' employ. However, these earnings were factored into nor blended into Aggrieved Employees' regular rates of pay, and respective overtime and double-time rates of pay, when Aggrieved Employees worked in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week.

Moreover, the uncompensated time, discussed above caused Aggrieved Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code § 510 and applicable Wage Orders.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on



any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of 8, 10, and 12 hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take meal periods in compliance with California Law. Specifically, due to understaffing and heavy workloads, Aggrieved Employees were denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work and were not relieved of all work duties during unpaid meal periods and were required to keep working during meal breaks.

Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal and rest period rights; and (3) Defendants' practice of requiring Aggrieved Employees to continue working through their meal and rest periods due to the excessive workload.

Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.



Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than 10 minutes for every work period of 4 or more consecutive hours, as required by Labor Code. Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Aggrieved Employees of their rest period rights; (3) Defendants' policy and practice of requiring putative class members to continue working through their rest breaks.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Proper Sick Time Wages

Labor Code Section 246 affords an employee "who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked" and "no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period."

Additionally, Subsection (l) of Section 246 provides:

For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

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

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite sick time pay in accordance with California Law. Specifically, Aggrieved Employees worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for



every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Aggrieved Employees did not account for the commission wages and/or performance-based non-discretionary bonus wages, which were never factored into the rate upon which sick pay was accrued and paid.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 246, 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. The wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks.

Additionally, for the purposes of Subsection (a)(9), Plaintiff seeks to expand the scope of the Aggrieved Employees she seeks to represent to extend to all individuals employed by Defendants during the applicable period. The wage statements issued to Aggrieved Employees failed to state all applicable hourly rates for which Aggrieved Employees were paid as required by Labor Code § 226(a)(9).

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the



amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...”

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants’ systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and that he was not paid all double time owed either. Defendants’ uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code §§ 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with



Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, *et seq.*

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiff's PAGA Claim under Labor Code § 2698 *et seq.* and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

The Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 212, 213, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699, *et seq.*, including as follows:



(a) Wage Claims: For failure to provide the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked, failure to pay proper reporting time and sick pay under Labor Code §§ 246, 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5 and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, 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.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendants and joint employers. To prevent the violations described in the Complaint and

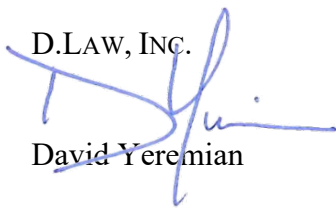


herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.



David Yeremian

Cc: East Bay Tire Co., by Certified Mail

1 D.LAW, INC.
Emil Davtyan (SBN 299363)
2 emil@d.law
David Yeremian (SBN 226337)
3 d.yeremian@d.law
David Keledjian (SBN 309135)
4 d.keledjian@d.law
David Arakelyan (SBN 337076)
5 d.arakelyan@d.law
6 880 E. Broadway
Glendale, CA 91205
7 Telephone: (818) 962-6465
8 Facsimile: (818) 962-6469

9 Attorneys for Plaintiff HUMBERTO MONTTOYA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF SACRAMENTO

12 HUMBERTO MONTTOYA, on behalf of
13 himself and all others similarly situated, and
14 the general public,

15 *Plaintiff,*

16 v.

17 EAST BAY TIRE CO., a California
Corporation; EXPRESS SERVICES, INC., a
18 Colorado Corporation; and DOES 1 through
50, inclusive,

19 *Defendants.*
20
21
22
23
24

Case No.:

CLASS ACTION COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);

JURY TRIAL DEMANDED

1 Plaintiff HUMBERTO MONTOYA (“Plaintiff”), on behalf of himself, all others similarly
2 situated, and the general public, complain and allege as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class action against Defendants EAST BAY TIRE CO., a
5 California Corporation; EXPRESS SERVICES, INC., a Colorado Corporation; and DOES 1 through
6 50, inclusive, (collectively referred to as “Defendants”) for alleged violations of the California Labor
7 Code and California Business and Professions Code. As set forth below, Plaintiff alleges that
8 Defendants have:

- 9 a. failed to pay them overtime wages at the correct rate;
10 b. failed to pay them double time wages at the correct rate;
11 c. failed to pay them overtime and/or double time wages by failing to include all
12 applicable remuneration in calculating the regular rate of pay;
13 d. failed to provide them with meal periods;
14 e. failed to provide them with rest periods;
15 f. failed to pay them premium wages for missed meal and rest periods;
16 g. failed to pay them proper sick time pay;
17 h. failed to provide them with accurate written wage statements; and
18 i. failed to pay them all of their final wages following separation of employment.

19 Based on these alleged Labor Code violations, Plaintiff now brings this class action to recover
20 unpaid wages, liquidated damages, penalties, restitution and related relief on behalf of himself, all
21 others similarly situated, and the general public.

22 **JURISDICTION AND VENUE**

23 2. This Court has subject matter jurisdiction to hear this case because the monetary
24 damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal jurisdiction
25 of the Superior Court of the State of California.

26 3. Venue is proper in the County of Sacramento pursuant to Code of Civil Procedure
27 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
28 that are the subject matter of this Complaint occurred therein and/or each defendant is found,

maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in Sacramento County because Defendants' have at all times alleged herein, conducted business in Sacramento County, and throughout California. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff HUMBERTO MONTOYA is, and at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that Defendant EAST BAY TIRE CO., is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

7. Plaintiff is informed and believes, and thereupon alleges that Defendant EXPRESS SERVICES, INC., is, and at all relevant times mentioned herein, a Colorado corporation doing business in the State of California.

8. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

9. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, owners, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent and ratification by such other defendants.

10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times

mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

11. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

12. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

- a. **Hourly Employee Class:** All persons employed by Defendants, collectively or separately, and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Hourly Employee Class”).
- b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a shift in excess of five hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- d. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.
- e. **Sick-Pay Class**
All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants, and were not paid for at least one hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-month period of employment.
- f. **Wage Statement Class:** All persons employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.
- g. **Commission Wage Statement Sub-Class**
All **Hourly Employee Class** members who earned commissions and/or preformance-based non-descretionary bonus pay during the one year prior to the filing of this action and ending on the date that final judgment is entered in this action
- h. **UCL Class:** All **Hourly Employee Class** members employed by Defendants in

1 California during the four years prior to the filing of this action and ending on the
2 date that final judgment is entered in this action.

3 13. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right
4 to amend or modify the class definitions with greater specificity, by further division into sub-classes
5 and/or by limitation to particular issues.

6 14. **Numerosity:** The class members are so numerous that the individual joinder of each
7 individual class member is impractical. While Plaintiff does not currently know the exact number of
8 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
9 exceeds the minimum required for numerosity under California law.

10 15. **Commonality and Predominance:** Common questions of law and fact exist as to all
11 class members and predominate over any questions which affect only individual class members.
12 These common questions include, but are not limited to:

- 13 a. Whether Defendants maintained a policy or practice of failing to provide
14 employees with their rest periods;
- 15 b. Whether Defendants maintained a policy or practice of failing to provide
16 employees with their meal periods;
- 17 c. Whether Defendants failed to pay premium wages to class members when they
18 have not been provided with meal and rest periods at the appropriate rates of pay;
- 19 d. Whether Defendants failed to pay minimum and/or overtime wages to class
20 members for all time worked;
- 21 e. Whether Defendants fails to pay proper sick time pay;
- 22 f. Whether Defendants failed to provide class members with accurate written wage
23 statements as a result of providing them with written wage statements with
24 inaccurate entries for, among other things, amounts of gross and net wages, and
25 total hours worked;
- 26 g. Whether Defendants applied policies or practices that result in late and/or
27 incomplete final wage payments;
- 28 h. Whether Defendants are liable to class members for waiting time penalties under

Labor Code section 203; and

- i. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

16. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes and thereupon alleges that Defendants have a policy or practice of failing to comply with the California Labor Code and Business and Professions Code as alleged in this Complaint.

17. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in that he has no interests that are adverse to, or otherwise conflict with, the interests of absent class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and adequately represent and protect the interests of the other class members.

18. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent class members, are experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf of Plaintiff and absent class members.

19. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS

20. Plaintiff worked for Defendants as a non-exempt employee during the relevant and statutory periods.

1 21. Defendants had a common policy and practice of systemically failing to pay Plaintiff
2 and Class members proper wages and overtime for all hours worked, at the proper rates of pay.

3 22. Plaintiff and Class Members were consistently required to perform work, off-the-
4 clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were
5 systemically required to perform work-related tasks during unpaid meal periods, when such meal
6 periods were provided, for which no wages were paid.

7 23. This uncompensated time caused Plaintiff and Class Members to work in excess of
8 eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week, entitling Plaintiff
9 and Class Members to minimum and overtime wages, which they were systemically denied.

10 24. Additionally, Defendants failed to pay Plaintiff and Class Members at the proper
11 overtime and double-time rates of pay. Plaintiff and Class Members earned commission wages and/or
12 performance-based non-discretionary bonus wages under Defendants' employ. However, these
13 earnings were factored into nor blended into Plaintiff and Class Members' regular rates of pay, and
14 respective overtime and double-time rates of pay, when Plaintiff and Class Members worked in excess
15 of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week.

16 25. Finally, Plaintiff and Class Members were required to remain on-call outside of their
17 usual scheduled shifts, and remain readily available to work, immediately upon Defendants' requests.
18 Plaintiff and Class Members were not left free and unrestricted during on-call working hours, and
19 were not free to pursue personal interests without restriction. Plaintiff and Class Members were never
20 paid stipends for either controlled or uncontrolled on-call or stand-by working hours.

21 26. Defendants had a common policy and practice of systemically denying Plaintiff and
22 Class Members the opportunity to take meal periods in compliance with the California Law.
23 Specifically, due to understaffing and heavy workloads, Plaintiff and Class Members were denied the
24 opportunity to take timely meal periods prior to the completion of their fifth hour of work and were
25 not relieved of all work duties during unpaid meal periods and were required to keep working during
26 meal breaks.

27 27. Plaintiff and Class Members were not provided with meal periods of at least thirty (30)
28 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal

1 period as part of each work shift; (2) no formal written meal policy that encouraged employees to
2 take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)
3 Defendants' practice of requiring putative class members to continue working through their meal and
4 rest periods due to the excessive workload.

5 28. Defendants had a common policy and practice of systemically denying Plaintiff and
6 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff
7 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)
8 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
9 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)
10 no formal compliant written rest period policy that encouraged employees to take their rest periods,
11 or that properly advised Plaintiff and Class Members of their rest period rights; (3) Defendants' policy
12 and practice of requiring putative class members to continue working through their rest breaks.

13 29. Furthermore, Defendants failed to pay Plaintiff and Class Members premium pay
14 wages at their appropriate regular rates of pay for each meal and rest period denied.

15 30. Plaintiff and Class Members were not provided with accurate wage statements as
16 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage
17 statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or
18 separately if wages are paid by personal check or cash, an accurate itemized statement in writing."
19 Additionally, the wage statements issued to Plaintiff and Class Members were not recorded in "ink
20 or other indelible form."

21 31. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
22 earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

23 32. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked
24 by the employee" were not accurately reflected in that: all hours worked, including overtime, were
25 not included.

26 33. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"
27 were not accurately reflected in that: all hours worked, including overtime, were not included.

28 34. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable

1 hourly rates in effect during the pay period and the corresponding number of hours worked at each
2 hourly rate by the employee” were not accurately reflected in that: all hours worked, including
3 overtime, were not included.

4 35. Furthermore, Defendants failed to provide Plaintiff and Class Members with paper pay
5 stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters.
6 Plaintiff’s and Class Members’ wage statement were only provided in electronic format in violation
7 of Labor Code § 226.

8 36. Finally, Defendants had a common policy and practice of systemically failing to pay
9 Plaintiff and Class Members the requisite sick time pay in accordance with California Law.
10 Specifically, Plaintiff and Class Members worked for Defendants for more than 30 days, but were not
11 paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every
12 12 month period of work. Additionally, the sick pay paid to Plaintiff and Class Members did not
13 account for the commission wages and/or performance-based non-discretionary bonus wages, which
14 were never factored into the rate upon which sick pay was accrued and paid.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PROVIDE MEAL PERIODS**

17 **(Lab. Code §§ 226.7, 512, 1174, and 1198)**

18 **(Plaintiff and Meal Period Sub-Class)**

19 37. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
20 fully alleged herein.

21 38. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
22 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
23 Code and the applicable Industrial Welfare Commission Wage Order.

24 39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare
25 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt
26 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period
27 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty
28 minutes for each work period of ten hours.

1 40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
2 Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work
3 during required meal periods and require employers to pay non-exempt employees an hour of
4 premium wages on each workday that the employee is not provided with the required meal period.

5 41. Compensation for missed meal periods constitutes wages within the meaning of Labor
6 Code section 200.

7 42. Labor Code section 1198 makes it unlawful to employ a person under conditions that
8 violate the applicable Wage Order.

9 43. Section 11 of the applicable Wage Order states:

10 “No employer shall employ any person for a work period of more than five (5) hours
11 without a meal period of not less than 30 minutes, except that when a work period of
12 not more than six (6) hours will complete the day’s work the meal period may be
13 waived by mutual consent of the employer and employee. Unless the employee is
14 relieved of all duty during a 30 minute meal period, the meal period shall be considered
15 an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall
be permitted only when the nature of the work prevents an employee from being
relieved of all duty and when by written agreement between the parties an on-the-job
paid meal period is agreed to. The written agreement shall state that the employee
may, in writing, revoke the agreement at any time.”

16 44. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
17 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
18 members were not subject to valid on-duty meal period agreements with Defendants.

19 45. Plaintiff alleges that, at all relevant times during the applicable limitations period,
20 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
21 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
22 hour work period, as required by Labor Code section 512 ad the applicable Wage Order. Specifically,
23 due to understaffing and heavy workloads, Plaintiff and **Meal Period Sub-Class** members were
24 denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work
25 and were not relieved of all work duties during unpaid meal periods and were required to keep
26 working during meal breaks.

27 46. Plaintiff alleges that, at all relevant times during the applicable limitations period,
28 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**

1 **Class** members when they worked five (5) hours without clocking out for any meal period.

2 47. Plaintiff alleges that, at all relevant times during the applicable limitations period,
3 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
4 **Sub-Class** with a second meal period when they worked shifts of ten or more hours and failed to pay
5 them premium wages as required by Labor Code 512 and the applicable Wage Order.

6 48. Moreover, Defendants written policies fail to inform Meal period Class Members of
7 their meal period rights under the Labor Code and applicable Wage Orders.

8 49. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
9 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
10 regular rates of pay when required meal periods were not provided.

11 50. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of
12 himself and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest
13 thereon, and costs of suit.

14 51. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
15 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and the
16 **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REST PERIODS**

19 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

20 **(Plaintiff and Rest Period Sub-Class)**

21 52. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
22 herein.

23 53. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been
24 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor
25 Code and the applicable Wage Order.

26 54. Section 12 of the applicable Wage Order imposes an affirmative obligation on
27 employers to permit and authorize employees to take required rest periods at a rate of no less than ten
28 minutes of net rest time for each four hour work period, or major fraction thereof, that must be in the

1 middle of each work period insofar as practicable.

2 55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit
3 employers from requiring employees to work during required rest periods and require employers to
4 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each
5 workday that the employee is not provided with the required rest period(s).

6 56. Compensation for missed rest periods constitutes wages within the meaning of Labor
7 Code section 200.

8 57. Labor Code section 1198 makes it unlawful to employ a person under conditions that
9 violate the Wage Order.

10 58. Plaintiff alleges that, at all relevant times during the applicable limitations period,
11 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
12 with net rest period of at least ten uninterrupted minutes for each four hour work period, or major
13 fraction thereof, as required by the applicable Wage Order.

14 59. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of
15 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
16 Defendants' policy of not scheduling each rest period as part of each work shift, including second
17 rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that
18 encouraged employees to take their rest periods, or that properly advised **Rest Period Sub-Class**
19 members of their rest period rights; (3) Defendants' policy and practice of requiring **Rest Period**
20 **Sub-Class** members to continue working through their rest breaks due to the excessive workload and
21 maintaining and monitoring their cellular phones during breaks.

22 60. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class**
23 members additional premium wages when required rest periods were not provided.

24 61. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself
25 and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and
26 costs of suit.

27 62. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
28 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and **Rest**

1 **Period Sub-Class** members, seek to recover reasonable attorneys' fees.

2 **THIRD CAUSE OF ACTION**

3 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

4 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

5 **(Plaintiff and Hourly Employee Class)**

6 63. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
7 herein.

8 64. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been
9 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
10 applicable Wage Order.

11 65. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
12 which an employee is subject to the control of the employer, and includes all the time the employee
13 is suffered or permitted to work, whether or not required to do so."

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

17 67. Labor Code section 1194 invalidates any agreement between an employer and an
18 employee to work for less than the minimum or overtime wage required under the applicable Wage
19 Order.

20 68. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
21 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
22 to the underlying unpaid minimum wages and interest thereon.

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

26 70. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
27 person acting either individually or as an officer, agent or employee of another person, to pay an
28 employee, or cause an employee to be paid, less than the applicable minimum wage.

1 71. Labor Code section 1198 makes it unlawful for employers to employ employees under
2 conditions that violate the applicable Wage Order.

3 72. Labor Code section 204 requires employers to pay non-exempt employees their earned
4 wages for the normal work period at least twice during each calendar month on days the employer
5 designates in advance and to pay non-exempt employees their earned wages for labor performed in
6 excess of the normal work period by no later than the next regular payday.

7 73. Labor Code section 223 makes it unlawful for employers to pay their employees lower
8 wages than required by contract or statute while purporting to pay them legal wages.

9 74. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
10 to pay non-exempt employees overtime wages of no less than one and one-half times their respective
11 regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in
12 excess of forty hours in one workweek, and/or for the first eight hours worked on the seventh
13 consecutive day of one workweek.

14 75. Labor Code section 510 and Section 3 of the applicable Wage Order also require
15 employers to pay non-exempt employees overtime wages of no less than two times their respective
16 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
17 worked in excess of eight hours on a seventh consecutive workday during the workweek.

18 76. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
19 centrally devised policies and practices to her and **Hourly Employee Class** members with respect to
20 working conditions and compensation arrangements.

21 77. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
22 **Employee Class** members for all time worked, including but not limited to, overtime hours at
23 statutory and/or agreed rates.

24 78. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
25 overtime for all hours worked, at the proper rates of pay. Plaintiff and **Hourly Employee Class**
26 members were consistently required to perform work, off-the-clock, for which they were not paid
27 wages. Specifically, Plaintiff and **Hourly Employee Class** members were systemically required to
28 perform work-related tasks during unpaid meal periods, when such meal periods were provided, for

1 which no wages were paid.

2 79. Finally, Plaintiff and **Hourly Employee Class** members were required to remain on-
3 call outside of their usual scheduled shifts, and remain readily available to work, immediately upon
4 Defendants' requests. Plaintiff and **Hourly Employee Class** members were not left free and
5 unrestricted during on-call working hours, and were not free to pursue personal interests without
6 restriction. Plaintiff and **Hourly Employee Class** members were never paid stipends for either
7 controlled or uncontrolled on-call or stand-by working hours.

8 80. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to
9 work in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week,
10 entitling Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which
11 they were systemically denied.

12 81. Additionally, Defendants failed to pay Plaintiff and **Hourly Employee Class** members
13 at the proper overtime and double-time rates of pay. Plaintiff and **Hourly Employee Class** members
14 earned commission wages and/or performance-based non-discretionary bonus wages under
15 Defendants' employ. However, these earnings were factored into nor blended into Plaintiff **Hourly**
16 **Employee Class** members' regular rates of pay, and respective overtime and double-time rates of
17 pay, when Plaintiff and **Hourly Employee Class** members worked in excess of eight (8), ten (10)
18 and/or twelve(12) hours a day and/or forty (40) hours a week.

19 82. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
20 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
21 full amount of wages earned during each pay period during the applicable limitations period,
22 including overtime wages.

23 83. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
24 behalf of himself and **Hourly Employee Class** members, seek to recover unpaid straight time and
25 overtime wages, interest thereon and costs of suit.

26 84. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
27 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
28 **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

FOURTH CAUSE OF ACTION
FAILURE TO PAY PROPER SICK PAY
(Lab. Code § 246)
(Plaintiff and Sick Pay Class)

85. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in full herein.

86. Labor Code Section 246 affords an employee “who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

87. Additionally, Subsection (l) of Section 246 provides:

For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

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

88. Defendants had a common policy and practice of systemically failing to pay Plaintiff and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiff and **Sick Pay Class** Members worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Plaintiff and **Sick Pay Class** Members did not account for the commission wages and/or performance-based non-discretionary bonus wages, which were never factored into the rate upon which sick pay was accrued and paid.

89. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties

pursuant to Labor Code § 558(a).

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS

(Lab. Code § 226)

(Plaintiff and Wage Statement Penalties Sub-Class)

90. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

91. Labor Code section 226(a) states:

“An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, ‘copy’ includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.”

92. The Division of Labor Standards Enforcement (“DLSE”) has sought to harmonize the “detachable part of the check” provision and the “accurate itemized statement in writing” provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee retains the right to elect to receive a written paper stub or record and that those who are provided with electronic wage statements retain the ability to easily access the information and convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

93. Plaintiff is informed and believes that, at all relevant times during the applicable

1 limitations period, Defendants have failed to provide **Wage Statement Class** members with written
2 wage statements as described above. Additionally, the wage statements issued to class members
3 failed to account for the unpaid minimum wages, overtime, and premium pay wages described
4 above.

5 94. Furthermore, Defendants failed to provide Plaintiff and **Wage Statement Class**
6 Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE
7 Opinion Letters. Plaintiff's and **Wage Statement Class** members' wage statement were only
8 provided in electronic format in violation of Labor Code § 226.

9 95. Additionally, the wage statements issued to the **Commission Wage Statement Sub-**
10 **Class** members failed to state the proper overtime and double-time rates of pay for commission
11 payments

12 96. Plaintiff is informed and believes that Defendants' failure to provide him, **Wage**
13 **Statement Class** members, and **Commission Wage Statement Sub-Class** with accurate written
14 wage statements were intentional in that Defendants have the ability to provide them with accurate
15 wage statements but have intentionally provided them with written wage statements that Defendants
16 have known do not comply with Labor Code section 226(a).

17 97. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
18 Defendants have violated their legal rights to receive accurate wage statements and have misled them
19 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage
20 statements have prevented immediate challenges to Defendants' unlawful pay practices, has required
21 discovery and mathematical computations to determine the amount of wages owed, has caused
22 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
23 submission of inaccurate information about wages and deductions to federal and state government
24 agencies.

25 98. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
26 **Statement Class** members, seek the greater of actual damages or \$50.00 for the initial pay period in
27 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
28 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of

1 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

2 **SIXTH CAUSE OF ACTION**

3 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

4 **(Lab. Code §§ 201-203)**

5 **(Plaintiff and Waiting Time Penalties Sub-Class)**

6 99. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
7 herein.

8 100. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have
9 been entitled, upon the end of their employment with Defendants, to timely payment of all wages
10 earned and unpaid before termination or resignation.

11 101. At all relevant times, pursuant to Labor Code section 201, employees who have been
12 discharged have been entitled to payment of all final wages immediately upon termination.

13 102. At all relevant times, pursuant to Labor Code section 202, employees who have
14 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
15 payment of all final wages at the time of resignation.

16 103. Plaintiff is informed and believes that, at all relevant time during the applicable
17 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
18 members all of their final wages in accordance with the Labor Code.

19 104. Plaintiff is informed and believes that, at all relevant times during the applicable
20 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
21 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
22 sections 201 or 202 by failing to timely pay them all final wages.

23 105. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to
24 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been willful
25 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
26 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
27 requirements.

28 106. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of himself and

1 **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their
2 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

3 107. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
4 and/or the common fund doctrine, Plaintiff, on behalf of himself and **Waiting Time Penalties Sub-**
5 **Class** members, seek awards of reasonable attorneys' fees and costs.

6 **SEVENTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

9 **(Plaintiff and UCL Class)**

10 108. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
11 herein.

12 109. Business and Professions Code section 17200 defines "unfair competition" to include
13 any unlawful business practice.

14 110. Business and Professions Code section 17203-17204 allow a person who has lost
15 money or property as a result of unfair competition to bring a class action in accordance with Code
16 of Civil Procedure section 382 to recover money or property that may have been acquired from
17 similarly situated persons by means of unfair competition.

18 111. California law requires employers to pay hourly, non-exempt employees for all hours
19 they are permitted or suffered to work, including hours that the employer knows or reasonable should
20 know that employees have worked.

21 112. Plaintiff and the **UCL Class** members re-alleges and incorporates the FIRST,
22 SECOND, THIRD, and FOURTH, causes of action herein.

23 113. Plaintiff lost money or property as a result of the aforementioned unfair competition.

24 114. Defendants have or may have acquired money by means of unfair competition.

25 115. Plaintiff is informed and believes and thereupon alleges that by committing the Labor
26 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225,
27 226.6, 226.7, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 1199
28 as well as applicable Wage Orders, which make it a misdemeanor to commit the violations alleged

1 herein.

2 116. Defendants have committed criminal conduct through their policies and practices of,
3 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt
4 employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay;
5 and proper sick time pay.

6 117. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes
7 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*
8 Business and Professions Code sections 17200 *et seq.* protects against unfair competition and allows
9 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,
10 unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of
11 similarly situated persons in a class action proceeding.

12 118. As a result of Defendants' violations of the Labor Code during the applicable
13 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
14 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants' conduct.

15 119. Plaintiff is informed and believes that other similarly situated persons have been
16 subject to the same unlawful policies or practices of Defendants.

17 120. Due to the unfair and unlawful business practices in violation of the Labor Code,
18 Defendants have gained a competitive advantage over other comparable companies doing business in
19 the State of California that comply with their legal obligations.

20 121. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
21 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act violates
22 or is considered unlawful under any other state or federal law.

23 122. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
24 Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining
25 Defendants, and each of them, and their agents and employees, from further violations of the Labor
26 Code and applicable Wage Orders.

27 123. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff
28 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining

1 Defendants, and each of them, and their agents and employees, from further violations of the Labor
2 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek an
3 order permanently enjoining Defendants, and each of them, and their respective agents and
4 employees, from further violations of the Labor Code and applicable Industrial Welfare Commission
5 Wage Orders.

6 124. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
7 himself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
8 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
9 and unfair business practices.

10 125. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
11 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
12 reasonable attorneys' fees in connection with their unfair competition claims.

13 126. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
14 himself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
15 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
16 and unfair business practices.

17 127. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
18 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
19 reasonable attorneys' fees in connection with their unfair competition claims.

20 **PRAYER FOR RELIEF**

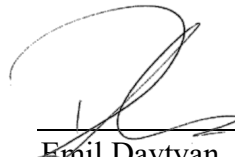
21 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general
22 public, prays for relief and judgment against Defendants as follows:

- 23 a. An order that the action be certified as a class action;
24 b. An order that Plaintiff be appointed class representative;
25 c. An order that counsel for Plaintiff be appointed class counsel;
26 d. Unpaid wages and overtime;
27 e. Actual damages;
28 f. Liquidated damages;

- 1 g. Restitution;
- 2 h. Declaratory relief;
- 3 i. Pre-judgment interest;
- 4 j. Statutory penalties;
- 5 k. Costs of suit;
- 6 l. Reasonable attorneys' fees; and
- 7 m. Such other relief as the Court deems just and proper.
- 8

9 Dated: September 20, 2023

D.LAW, INC.

10 

11 _____
12 Emil Davtyan
13 David Yeremian
14 David Keledjian
15 David Arakelyan
16 Attorneys for Plaintiff
HUMBERTO MONTOYA, and the putative class

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff, on behalf of himself, all other similarly situated, and the general public, hereby
19 demands a jury trial on all issues so triable.

20 Dated: September 20, 2023

D.LAW, INC.

21 

22 _____
23 Emil Davtyan
24 David Yeremian
25 David Keledjian
26 David Arakelyan
27 Attorneys for Plaintiff
28 HUMBERTO MONTOYA, and the putative class

November 16, 2023

VIA ON-LINE SUBMISSION AND MAIL:

<https://dir.tfaforms.net/128> (copy by certified mail to all Defendants)

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

East Bay Tire Co.

Joseph Pehanick, Agent for Service of Process
2200 Huntington Drive, Unit C
Fairfield, CA 94533
Certified Mail Tracking Number: 9414 8112 0620 4851 7064 49

East Bay Tire Co.

2200 Huntington Drive, Unit C
Fairfield, CA 94533
Certified Mail Tracking Number: 9414 8112 0620 4851 1337 19

LWDA Case No.: LWDA-CM-982671-23

**Re: Labor Code § 2698, et seq. Penalties – PAGA Notice Letter to the LWDA
*Humberto Montoya v. East Bay Tire Co., et al.***

Gentlepersons:

This office represents Plaintiff Humberto Montoya (“Plaintiff”) and other similarly situated aggrieved employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 204, 210, 212, 213, 226, 226.3, 226.7, 226.8, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, et seq., and 2802; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 et seq.

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 et. seq. (“the Act”). Unless specified below, Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated, Aggrieved Employees, and the State of California, against Defendants, East Bay Tire Co., Express Services, Inc., and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along Plaintiff’s Class Action Complaint, which is attached hereto and incorporated by reference herein. The Complaint is being concurrently filed in Sacramento County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

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We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees"). However, with regard to the allegations under Labor Code § 226(a) only, Plaintiff expands the scope and definition of the Aggrieved Employees to all employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay. Aggrieved Employees were consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Aggrieved Employees were systemically required to perform work-related tasks during unpaid meal periods, when such meal periods were provided, for which no wages were paid.

This uncompensated time caused Aggrieved Employees to work in excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Aggrieved Employees to minimum and overtime wages, which they were systemically denied.

Additionally, Defendants failed to pay Aggrieved Employees at the proper overtime and double-time rates of pay. Aggrieved Employees earned commission wages and/or performance-based non-discretionary bonus wages under Defendants' employ. However, these earnings were factored into nor blended into Aggrieved Employees' regular rates of pay, and respective overtime and double-time rates of pay, when Aggrieved Employees worked in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week.

Finally, Aggrieved Employees were required to remain on-call outside of their usual scheduled shifts, and remain readily available to work, immediately upon Defendants' requests. Aggrieved Employees were not left free and unrestricted during on-call working hours, and were not free to pursue personal interests without restriction. Aggrieved Employees were never paid stipends for either controlled or uncontrolled on-call or stand-by working hours.

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take meal periods in compliance with California Law. Specifically, due to understaffing and heavy workloads, Aggrieved Employees were denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work and were not relieved of all work duties during unpaid meal periods and were required to keep working during meal breaks.

Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal and rest period rights; and (3) Defendants' practice of requiring Aggrieved Employees to continue working through their meal and rest periods due to the excessive workload.



Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take rest breaks in compliance with the California Law. Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Aggrieved Employees of their rest period rights; (3) Defendants' policy and practice of requiring putative class members to continue working through their rest breaks.

Furthermore, Defendants failed to pay Aggrieved Employees premium pay wages at their appropriate regular rates of pay for each meal and rest period denied.

Aggrieved Employees were not provided with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing." Additionally, the wage statements issued to Aggrieved Employees were not recorded in "ink or other indelible form."

Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

Furthermore, Defendants failed to provide Aggrieved Employees with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiff's and Aggrieved Employees' wage statement were only provided in electronic format in violation of Labor Code § 226.

Finally, Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite sick time pay in accordance with California Law. Specifically, Aggrieved Employees worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Aggrieved Employees did not account for the commission wages and/or performance-based non-discretionary bonus wages, which were never factored into the rate upon which sick pay was accrued and paid

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PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the Class Action Complaint, the Aggrieved Employees complain of the following violations committed by Defendants:¹

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he 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.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders 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.” Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states: “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.” The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants’ unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay. Aggrieved Employees were consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Aggrieved Employees were systemically required to perform work-related tasks

¹ Plaintiff hereby reserves the right to seek penalties on behalf of all Aggrieved Employees, for Defendants’ violations of the applicable provisions of the Labor Code, suffered by Aggrieved Employees, but not directly suffered by Plaintiff under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.



during unpaid meal periods, when such meal periods were provided, for which no wages were paid.

Additionally, Aggrieved Employees were required to remain on-call outside of their usual scheduled shifts, and remain readily available to work, immediately upon Defendants' requests. Aggrieved Employees were not left free and unrestricted during on-call working hours, and were not free to pursue personal interests without restriction. Aggrieved Employees were never paid stipends for either controlled or uncontrolled on-call or stand-by working hours.

This uncompensated time caused Aggrieved Employees to work in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week, entitling Aggrieved Employees to minimum and overtime wages, which they were systemically denied.

Defendants have the ability to pay minimum and overtime wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Aggrieved Employees.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Aggrieved Employees consistently worked in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week. However, Aggrieved Employees were not paid overtime wages for hours worked in excess of 8 hours a day. Defendants failed to pay Aggrieved Employees at the proper overtime and double-time rates of pay. Aggrieved Employees earned commission wages and/or performance-based non-discretionary bonus wages under Defendants' employ. However, these earnings were factored into nor blended into Aggrieved Employees' regular rates of pay, and respective overtime and double-time rates of pay, when Aggrieved Employees worked in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week.

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Moreover, the uncompensated time, discussed above caused Aggrieved Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code § 510 and applicable Wage Orders.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of 8, 10, and 12 hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take meal periods in compliance with California Law. Specifically, due to understaffing and heavy workloads, Aggrieved Employees were denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work and were not relieved of all work duties during unpaid meal periods and were required to keep working during meal breaks.

Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal and rest period rights; and (3) Defendants' practice of requiring Aggrieved Employees to continue working through their meal



and rest periods due to the excessive workload.

Defendants also failed to pay Aggrieved Employees “premium pay,” i.e. one hour of wages at each Aggrieved Employee’s effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than 10 minutes for every work period of 4 or more consecutive hours, as required by Labor Code. Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants’ policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Aggrieved Employees of their rest period rights; (3) Defendants’ policy and practice of requiring putative class members to continue working through their rest breaks.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Proper Sick Time Wages

Labor Code Section 246 affords an employee “who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

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Additionally, Subsection (l) of Section 246 provides:

For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

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

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite sick time pay in accordance with California Law. Specifically, Aggrieved Employees worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Aggrieved Employees did not account for the commission wages and/or performance-based non-discretionary bonus wages, which were never factored into the rate upon which sick pay was accrued and paid.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 246, 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. The wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks.

Additionally, for the purposes of Subsection (a)(9), Plaintiff seeks to expand the scope of the Aggrieved Employees she seeks to represent to extend to all individuals employed by Defendants during the applicable period. The wage statements issued to Aggrieved Employees failed to state all applicable hourly rates for which Aggrieved Employees were paid as required by Labor Code § 226(a)(9).

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding



an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and that he was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.



Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code §§ 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, *et seq.*

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*



Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

The Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 212, 213, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699, *et seq.*, including as follows:

(a) Wage Claims: For failure to provide the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked, failure to pay proper reporting time and sick pay under Labor Code §§ 246, 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor



Code § 1198 and Labor Code § 2699.5 and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

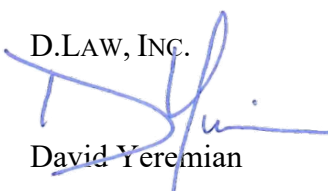
We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.



David Yeremian

Cc: East Bay Tire Co., by Certified Mail

COPY

Superior Court of California,
Sacramento

09/20/2023

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By _____, Deputy

23CV008841

1 D.LAW, INC.
2 Emil Davtyan (SBN 299363)
3 emil@d.law
4 David Yeremian (SBN 226337)
5 d.yeremian@d.law
6 David Keledjian (SBN 309135)
7 d.keledjian@d.law
8 David Arakelyan (SBN 337076)
9 d.arakelyan@d.law
10 880 E. Broadway
11 Glendale, CA 91205
12 Telephone: (818) 962-6465
13 Facsimile: (818) 962-6469

14 Attorneys for Plaintiff HUMBERTO MONTTOYA

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF SACRAMENTO

17 HUMBERTO MONTTOYA, on behalf of
18 himself and all others similarly situated, and
19 the general public,

20 *Plaintiff,*

21 v.

22 EAST BAY TIRE CO., a California
23 Corporation; EXPRESS SERVICES, INC., a
24 Colorado Corporation; and DOES 1 through
25 50, inclusive,

26 *Defendants.*

Case No.:

CLASS ACTION COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);

JURY TRIAL DEMANDED

BY FAX

1 Plaintiff HUMBERTO MONTOYA (“Plaintiff”), on behalf of himself, all others similarly
2 situated, and the general public, complain and allege as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class action against Defendants EAST BAY TIRE CO., a
5 California Corporation; EXPRESS SERVICES, INC., a Colorado Corporation; and DOES 1 through
6 50, inclusive, (collectively referred to as “Defendants”) for alleged violations of the California Labor
7 Code and California Business and Professions Code. As set forth below, Plaintiff alleges that
8 Defendants have:

- 9 a. failed to pay them overtime wages at the correct rate;
10 b. failed to pay them double time wages at the correct rate;
11 c. failed to pay them overtime and/or double time wages by failing to include all
12 applicable remuneration in calculating the regular rate of pay;
13 d. failed to provide them with meal periods;
14 e. failed to provide them with rest periods;
15 f. failed to pay them premium wages for missed meal and rest periods;
16 g. failed to pay them proper sick time pay;
17 h. failed to provide them with accurate written wage statements; and
18 i. failed to pay them all of their final wages following separation of employment.

19 Based on these alleged Labor Code violations, Plaintiff now brings this class action to recover
20 unpaid wages, liquidated damages, penalties, restitution and related relief on behalf of himself, all
21 others similarly situated, and the general public.

22 **JURISDICTION AND VENUE**

23 2. This Court has subject matter jurisdiction to hear this case because the monetary
24 damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal jurisdiction
25 of the Superior Court of the State of California.

26 3. Venue is proper in the County of Sacramento pursuant to Code of Civil Procedure
27 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
28 that are the subject matter of this Complaint occurred therein and/or each defendant is found,

maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in Sacramento County because Defendants' have at all times alleged herein, conducted business in Sacramento County, and throughout California. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff HUMBERTO MONTOYA is, and at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that Defendant EAST BAY TIRE CO., is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

7. Plaintiff is informed and believes, and thereupon alleges that Defendant EXPRESS SERVICES, INC., is, and at all relevant times mentioned herein, a Colorado corporation doing business in the State of California.

8. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

9. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, owners, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent and ratification by such other defendants.

10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times

mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

11. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

12. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

- a. **Hourly Employee Class:** All persons employed by Defendants, collectively or separately, and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Hourly Employee Class”).
- b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a shift in excess of five hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- d. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.
- e. **Sick-Pay Class**
All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants, and were not paid for at least one hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-month period of employment.
- f. **Wage Statement Class:** All persons employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.
- g. **Commission Wage Statement Sub-Class**
All **Hourly Employee Class** members who earned commissions and/or preformance-based non-descretionary bonus pay during the one year prior to the filing of this action and ending on the date that final judgment is entered in this action
- h. **UCL Class:** All **Hourly Employee Class** members employed by Defendants in

1 California during the four years prior to the filing of this action and ending on the
2 date that final judgment is entered in this action.

3 13. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right
4 to amend or modify the class definitions with greater specificity, by further division into sub-classes
5 and/or by limitation to particular issues.

6 14. **Numerosity:** The class members are so numerous that the individual joinder of each
7 individual class member is impractical. While Plaintiff does not currently know the exact number of
8 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
9 exceeds the minimum required for numerosity under California law.

10 15. **Commonality and Predominance:** Common questions of law and fact exist as to all
11 class members and predominate over any questions which affect only individual class members.
12 These common questions include, but are not limited to:

- 13 a. Whether Defendants maintained a policy or practice of failing to provide
14 employees with their rest periods;
- 15 b. Whether Defendants maintained a policy or practice of failing to provide
16 employees with their meal periods;
- 17 c. Whether Defendants failed to pay premium wages to class members when they
18 have not been provided with meal and rest periods at the appropriate rates of pay;
- 19 d. Whether Defendants failed to pay minimum and/or overtime wages to class
20 members for all time worked;
- 21 e. Whether Defendants fails to pay proper sick time pay;
- 22 f. Whether Defendants failed to provide class members with accurate written wage
23 statements as a result of providing them with written wage statements with
24 inaccurate entries for, among other things, amounts of gross and net wages, and
25 total hours worked;
- 26 g. Whether Defendants applied policies or practices that result in late and/or
27 incomplete final wage payments;
- 28 h. Whether Defendants are liable to class members for waiting time penalties under

1 Labor Code section 203; and

- 2 i. Whether class members are entitled to restitution of money or property that
3 Defendants may have acquired from them through unfair competition;

4 16. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff
5 is informed and believes and thereupon alleges that Defendants have a policy or practice of failing to
6 comply with the California Labor Code and Business and Professions Code as alleged in this
7 Complaint.

8 17. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in
9 that he has no interests that are adverse to, or otherwise conflict with, the interests of absent class
10 members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly
11 and adequately represent and protect the interests of the other class members.

12 18. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
13 they have no known conflicts of interest with Plaintiff or absent class members, are experienced in
14 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf
15 of Plaintiff and absent class members.

16 19. **Superiority:** A class action is vastly superior to other available means for fair and
17 efficient adjudication of the class members' claims and would be beneficial to the parties and the
18 Court. Class action treatment will allow a number of similarly situated persons to simultaneously and
19 efficiently prosecute their common claims in a single forum without the unnecessary duplication of
20 effort and expense that numerous individual actions would entail. In addition, the monetary amounts
21 due to many individual class members are likely to be relatively small and would thus make it difficult,
22 if not impossible, for individual class members to both seek and obtain relief. Moreover, a class
23 action will serve an important public interest by permitting class members to effectively pursue the
24 recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent
25 or contradictory judgments inherent in individual litigation.

26 **GENERAL ALLEGATIONS**

27 20. Plaintiff worked for Defendants as a non-exempt employee during the relevant and
28 statutory periods.

1 21. Defendants had a common policy and practice of systemically failing to pay Plaintiff
2 and Class members proper wages and overtime for all hours worked, at the proper rates of pay.

3 22. Plaintiff and Class Members were consistently required to perform work, off-the-
4 clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were
5 systemically required to perform work-related tasks during unpaid meal periods, when such meal
6 periods were provided, for which no wages were paid.

7 23. This uncompensated time caused Plaintiff and Class Members to work in excess of
8 eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week, entitling Plaintiff
9 and Class Members to minimum and overtime wages, which they were systemically denied.

10 24. Additionally, Defendants failed to pay Plaintiff and Class Members at the proper
11 overtime and double-time rates of pay. Plaintiff and Class Members earned commission wages and/or
12 performance-based non-discretionary bonus wages under Defendants' employ. However, these
13 earnings were factored into nor blended into Plaintiff and Class Members' regular rates of pay, and
14 respective overtime and double-time rates of pay, when Plaintiff and Class Members worked in excess
15 of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week.

16 25. Finally, Plaintiff and Class Members were required to remain on-call outside of their
17 usual scheduled shifts, and remain readily available to work, immediately upon Defendants' requests.
18 Plaintiff and Class Members were not left free and unrestricted during on-call working hours, and
19 were not free to pursue personal interests without restriction. Plaintiff and Class Members were never
20 paid stipends for either controlled or uncontrolled on-call or stand-by working hours.

21 26. Defendants had a common policy and practice of systemically denying Plaintiff and
22 Class Members the opportunity to take meal periods in compliance with the California Law.
23 Specifically, due to understaffing and heavy workloads, Plaintiff and Class Members were denied the
24 opportunity to take timely meal periods prior to the completion of their fifth hour of work and were
25 not relieved of all work duties during unpaid meal periods and were required to keep working during
26 meal breaks.

27 27. Plaintiff and Class Members were not provided with meal periods of at least thirty (30)
28 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal

1 period as part of each work shift; (2) no formal written meal policy that encouraged employees to
2 take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)
3 Defendants' practice of requiring putative class members to continue working through their meal and
4 rest periods due to the excessive workload.

5 28. Defendants had a common policy and practice of systemically denying Plaintiff and
6 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff
7 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)
8 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
9 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)
10 no formal compliant written rest period policy that encouraged employees to take their rest periods,
11 or that properly advised Plaintiff and Class Members of their rest period rights; (3) Defendants' policy
12 and practice of requiring putative class members to continue working through their rest breaks.

13 29. Furthermore, Defendants failed to pay Plaintiff and Class Members premium pay
14 wages at their appropriate regular rates of pay for each meal and rest period denied.

15 30. Plaintiff and Class Members were not provided with accurate wage statements as
16 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage
17 statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or
18 separately if wages are paid by personal check or cash, an accurate itemized statement in writing."
19 Additionally, the wage statements issued to Plaintiff and Class Members were not recorded in "ink
20 or other indelible form."

21 31. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
22 earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

23 32. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked
24 by the employee" were not accurately reflected in that: all hours worked, including overtime, were
25 not included.

26 33. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"
27 were not accurately reflected in that: all hours worked, including overtime, were not included.

28 34. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable

1 hourly rates in effect during the pay period and the corresponding number of hours worked at each
2 hourly rate by the employee” were not accurately reflected in that: all hours worked, including
3 overtime, were not included.

4 35. Furthermore, Defendants failed to provide Plaintiff and Class Members with paper pay
5 stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters.
6 Plaintiff’s and Class Members’ wage statement were only provided in electronic format in violation
7 of Labor Code § 226.

8 36. Finally, Defendants had a common policy and practice of systemically failing to pay
9 Plaintiff and Class Members the requisite sick time pay in accordance with California Law.
10 Specifically, Plaintiff and Class Members worked for Defendants for more than 30 days, but were not
11 paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every
12 12 month period of work. Additionally, the sick pay paid to Plaintiff and Class Members did not
13 account for the commission wages and/or performance-based non-discretionary bonus wages, which
14 were never factored into the rate upon which sick pay was accrued and paid.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PROVIDE MEAL PERIODS**

17 **(Lab. Code §§ 226.7, 512, 1174, and 1198)**

18 **(Plaintiff and Meal Period Sub-Class)**

19 37. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
20 fully alleged herein.

21 38. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
22 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
23 Code and the applicable Industrial Welfare Commission Wage Order.

24 39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare
25 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt
26 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period
27 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty
28 minutes for each work period of ten hours.

1 40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
2 Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work
3 during required meal periods and require employers to pay non-exempt employees an hour of
4 premium wages on each workday that the employee is not provided with the required meal period.

5 41. Compensation for missed meal periods constitutes wages within the meaning of Labor
6 Code section 200.

7 42. Labor Code section 1198 makes it unlawful to employ a person under conditions that
8 violate the applicable Wage Order.

9 43. Section 11 of the applicable Wage Order states:

10 “No employer shall employ any person for a work period of more than five (5) hours
11 without a meal period of not less than 30 minutes, except that when a work period of
12 not more than six (6) hours will complete the day’s work the meal period may be
13 waived by mutual consent of the employer and employee. Unless the employee is
14 relieved of all duty during a 30 minute meal period, the meal period shall be considered
15 an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall
be permitted only when the nature of the work prevents an employee from being
relieved of all duty and when by written agreement between the parties an on-the-job
paid meal period is agreed to. The written agreement shall state that the employee
may, in writing, revoke the agreement at any time.”

16 44. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
17 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
18 members were not subject to valid on-duty meal period agreements with Defendants.

19 45. Plaintiff alleges that, at all relevant times during the applicable limitations period,
20 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
21 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
22 hour work period, as required by Labor Code section 512 ad the applicable Wage Order. Specifically,
23 due to understaffing and heavy workloads, Plaintiff and **Meal Period Sub-Class** members were
24 denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work
25 and were not relieved of all work duties during unpaid meal periods and were required to keep
26 working during meal breaks.

27 46. Plaintiff alleges that, at all relevant times during the applicable limitations period,
28 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**

1 **Class** members when they worked five (5) hours without clocking out for any meal period.

2 47. Plaintiff alleges that, at all relevant times during the applicable limitations period,
3 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
4 **Sub-Class** with a second meal period when they worked shifts of ten or more hours and failed to pay
5 them premium wages as required by Labor Code 512 and the applicable Wage Order.

6 48. Moreover, Defendants written policies fail to inform Meal period Class Members of
7 their meal period rights under the Labor Code and applicable Wage Orders.

8 49. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
9 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
10 regular rates of pay when required meal periods were not provided.

11 50. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of
12 himself and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest
13 thereon, and costs of suit.

14 51. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
15 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and the
16 **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REST PERIODS**

19 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

20 **(Plaintiff and Rest Period Sub-Class)**

21 52. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
22 herein.

23 53. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been
24 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor
25 Code and the applicable Wage Order.

26 54. Section 12 of the applicable Wage Order imposes an affirmative obligation on
27 employers to permit and authorize employees to take required rest periods at a rate of no less than ten
28 minutes of net rest time for each four hour work period, or major fraction thereof, that must be in the

1 middle of each work period insofar as practicable.

2 55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit
3 employers from requiring employees to work during required rest periods and require employers to
4 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each
5 workday that the employee is not provided with the required rest period(s).

6 56. Compensation for missed rest periods constitutes wages within the meaning of Labor
7 Code section 200.

8 57. Labor Code section 1198 makes it unlawful to employ a person under conditions that
9 violate the Wage Order.

10 58. Plaintiff alleges that, at all relevant times during the applicable limitations period,
11 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
12 with net rest period of at least ten uninterrupted minutes for each four hour work period, or major
13 fraction thereof, as required by the applicable Wage Order.

14 59. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of
15 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
16 Defendants' policy of not scheduling each rest period as part of each work shift, including second
17 rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that
18 encouraged employees to take their rest periods, or that properly advised **Rest Period Sub-Class**
19 members of their rest period rights; (3) Defendants' policy and practice of requiring **Rest Period**
20 **Sub-Class** members to continue working through their rest breaks due to the excessive workload and
21 maintaining and monitoring their cellular phones during breaks.

22 60. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class**
23 members additional premium wages when required rest periods were not provided.

24 61. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself
25 and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and
26 costs of suit.

27 62. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
28 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and **Rest**

1 **Period Sub-Class** members, seek to recover reasonable attorneys' fees.

2 **THIRD CAUSE OF ACTION**

3 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

4 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

5 **(Plaintiff and Hourly Employee Class)**

6 63. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
7 herein.

8 64. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been
9 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
10 applicable Wage Order.

11 65. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
12 which an employee is subject to the control of the employer, and includes all the time the employee
13 is suffered or permitted to work, whether or not required to do so."

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

17 67. Labor Code section 1194 invalidates any agreement between an employer and an
18 employee to work for less than the minimum or overtime wage required under the applicable Wage
19 Order.

20 68. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
21 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
22 to the underlying unpaid minimum wages and interest thereon.

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

26 70. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
27 person acting either individually or as an officer, agent or employee of another person, to pay an
28 employee, or cause an employee to be paid, less than the applicable minimum wage.

1 71. Labor Code section 1198 makes it unlawful for employers to employ employees under
2 conditions that violate the applicable Wage Order.

3 72. Labor Code section 204 requires employers to pay non-exempt employees their earned
4 wages for the normal work period at least twice during each calendar month on days the employer
5 designates in advance and to pay non-exempt employees their earned wages for labor performed in
6 excess of the normal work period by no later than the next regular payday.

7 73. Labor Code section 223 makes it unlawful for employers to pay their employees lower
8 wages than required by contract or statute while purporting to pay them legal wages.

9 74. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
10 to pay non-exempt employees overtime wages of no less than one and one-half times their respective
11 regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in
12 excess of forty hours in one workweek, and/or for the first eight hours worked on the seventh
13 consecutive day of one workweek.

14 75. Labor Code section 510 and Section 3 of the applicable Wage Order also require
15 employers to pay non-exempt employees overtime wages of no less than two times their respective
16 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
17 worked in excess of eight hours on a seventh consecutive workday during the workweek.

18 76. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
19 centrally devised policies and practices to her and **Hourly Employee Class** members with respect to
20 working conditions and compensation arrangements.

21 77. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
22 **Employee Class** members for all time worked, including but not limited to, overtime hours at
23 statutory and/or agreed rates.

24 78. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
25 overtime for all hours worked, at the proper rates of pay. Plaintiff and **Hourly Employee Class**
26 members were consistently required to perform work, off-the-clock, for which they were not paid
27 wages. Specifically, Plaintiff and **Hourly Employee Class** members were systemically required to
28 perform work-related tasks during unpaid meal periods, when such meal periods were provided, for

1 which no wages were paid.

2 79. Finally, Plaintiff and **Hourly Employee Class** members were required to remain on-
3 call outside of their usual scheduled shifts, and remain readily available to work, immediately upon
4 Defendants' requests. Plaintiff and **Hourly Employee Class** members were not left free and
5 unrestricted during on-call working hours, and were not free to pursue personal interests without
6 restriction. Plaintiff and **Hourly Employee Class** members were never paid stipends for either
7 controlled or uncontrolled on-call or stand-by working hours.

8 80. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to
9 work in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week,
10 entitling Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which
11 they were systemically denied.

12 81. Additionally, Defendants failed to pay Plaintiff and **Hourly Employee Class** members
13 at the proper overtime and double-time rates of pay. Plaintiff and **Hourly Employee Class** members
14 earned commission wages and/or performance-based non-discretionary bonus wages under
15 Defendants' employ. However, these earnings were factored into nor blended into Plaintiff **Hourly**
16 **Employee Class** members' regular rates of pay, and respective overtime and double-time rates of
17 pay, when Plaintiff and **Hourly Employee Class** members worked in excess of eight (8), ten (10)
18 and/or twelve(12) hours a day and/or forty (40) hours a week.

19 82. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
20 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
21 full amount of wages earned during each pay period during the applicable limitations period,
22 including overtime wages.

23 83. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
24 behalf of himself and **Hourly Employee Class** members, seek to recover unpaid straight time and
25 overtime wages, interest thereon and costs of suit.

26 84. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
27 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
28 **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

FOURTH CAUSE OF ACTION
FAILURE TO PAY PROPER SICK PAY
(Lab. Code § 246)
(Plaintiff and Sick Pay Class)

85. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in full herein.

86. Labor Code Section 246 affords an employee “who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

87. Additionally, Subsection (l) of Section 246 provides:

For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

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

88. Defendants had a common policy and practice of systemically failing to pay Plaintiff and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiff and **Sick Pay Class** Members worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Plaintiff and **Sick Pay Class** Members did not account for the commission wages and/or performance-based non-discretionary bonus wages, which were never factored into the rate upon which sick pay was accrued and paid.

89. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties

pursuant to Labor Code § 558(a).

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS

(Lab. Code § 226)

(Plaintiff and Wage Statement Penalties Sub-Class)

90. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

91. Labor Code section 226(a) states:

“An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, ‘copy’ includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.”

92. The Division of Labor Standards Enforcement (“DLSE”) has sought to harmonize the “detachable part of the check” provision and the “accurate itemized statement in writing” provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee retains the right to elect to receive a written paper stub or record and that those who are provided with electronic wage statements retain the ability to easily access the information and convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

93. Plaintiff is informed and believes that, at all relevant times during the applicable

1 limitations period, Defendants have failed to provide **Wage Statement Class** members with written
2 wage statements as described above. Additionally, the wage statements issued to class members
3 failed to account for the unpaid minimum wages, overtime, and premium pay wages described
4 above.

5 94. Furthermore, Defendants failed to provide Plaintiff and **Wage Statement Class**
6 Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE
7 Opinion Letters. Plaintiff's and **Wage Statement Class** members' wage statement were only
8 provided in electronic format in violation of Labor Code § 226.

9 95. Additionally, the wage statements issued to the **Commission Wage Statement Sub-**
10 **Class** members failed to state the proper overtime and double-time rates of pay for commission
11 payments

12 96. Plaintiff is informed and believes that Defendants' failure to provide him, **Wage**
13 **Statement Class** members, and **Commission Wage Statement Sub-Class** with accurate written
14 wage statements were intentional in that Defendants have the ability to provide them with accurate
15 wage statements but have intentionally provided them with written wage statements that Defendants
16 have known do not comply with Labor Code section 226(a).

17 97. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
18 Defendants have violated their legal rights to receive accurate wage statements and have misled them
19 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage
20 statements have prevented immediate challenges to Defendants' unlawful pay practices, has required
21 discovery and mathematical computations to determine the amount of wages owed, has caused
22 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
23 submission of inaccurate information about wages and deductions to federal and state government
24 agencies.

25 98. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
26 **Statement Class** members, seek the greater of actual damages or \$50.00 for the initial pay period in
27 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
28 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of

1 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

2 **SIXTH CAUSE OF ACTION**

3 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

4 **(Lab. Code §§ 201-203)**

5 **(Plaintiff and Waiting Time Penalties Sub-Class)**

6 99. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
7 herein.

8 100. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have
9 been entitled, upon the end of their employment with Defendants, to timely payment of all wages
10 earned and unpaid before termination or resignation.

11 101. At all relevant times, pursuant to Labor Code section 201, employees who have been
12 discharged have been entitled to payment of all final wages immediately upon termination.

13 102. At all relevant times, pursuant to Labor Code section 202, employees who have
14 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
15 payment of all final wages at the time of resignation.

16 103. Plaintiff is informed and believes that, at all relevant time during the applicable
17 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
18 members all of their final wages in accordance with the Labor Code.

19 104. Plaintiff is informed and believes that, at all relevant times during the applicable
20 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
21 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
22 sections 201 or 202 by failing to timely pay them all final wages.

23 105. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to
24 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been willful
25 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
26 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
27 requirements.

28 106. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of himself and

1 **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their
2 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

3 107. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
4 and/or the common fund doctrine, Plaintiff, on behalf of himself and **Waiting Time Penalties Sub-**
5 **Class** members, seek awards of reasonable attorneys' fees and costs.

6 **SEVENTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

9 **(Plaintiff and UCL Class)**

10 108. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
11 herein.

12 109. Business and Professions Code section 17200 defines "unfair competition" to include
13 any unlawful business practice.

14 110. Business and Professions Code section 17203-17204 allow a person who has lost
15 money or property as a result of unfair competition to bring a class action in accordance with Code
16 of Civil Procedure section 382 to recover money or property that may have been acquired from
17 similarly situated persons by means of unfair competition.

18 111. California law requires employers to pay hourly, non-exempt employees for all hours
19 they are permitted or suffered to work, including hours that the employer knows or reasonable should
20 know that employees have worked.

21 112. Plaintiff and the **UCL Class** members re-alleges and incorporates the FIRST,
22 SECOND, THIRD, and FOURTH, causes of action herein.

23 113. Plaintiff lost money or property as a result of the aforementioned unfair competition.

24 114. Defendants have or may have acquired money by means of unfair competition.

25 115. Plaintiff is informed and believes and thereupon alleges that by committing the Labor
26 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225,
27 226.6, 226.7, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 1199
28 as well as applicable Wage Orders, which make it a misdemeanor to commit the violations alleged

1 herein.

2 116. Defendants have committed criminal conduct through their policies and practices of,
3 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt
4 employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay;
5 and proper sick time pay.

6 117. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes
7 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*
8 Business and Professions Code sections 17200 *et seq.* protects against unfair competition and allows
9 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,
10 unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of
11 similarly situated persons in a class action proceeding.

12 118. As a result of Defendants' violations of the Labor Code during the applicable
13 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
14 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants' conduct.

15 119. Plaintiff is informed and believes that other similarly situated persons have been
16 subject to the same unlawful policies or practices of Defendants.

17 120. Due to the unfair and unlawful business practices in violation of the Labor Code,
18 Defendants have gained a competitive advantage over other comparable companies doing business in
19 the State of California that comply with their legal obligations.

20 121. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
21 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act violates
22 or is considered unlawful under any other state or federal law.

23 122. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
24 Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining
25 Defendants, and each of them, and their agents and employees, from further violations of the Labor
26 Code and applicable Wage Orders.

27 123. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff
28 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining

1 Defendants, and each of them, and their agents and employees, from further violations of the Labor
2 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek an
3 order permanently enjoining Defendants, and each of them, and their respective agents and
4 employees, from further violations of the Labor Code and applicable Industrial Welfare Commission
5 Wage Orders.

6 124. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
7 himself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
8 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
9 and unfair business practices.

10 125. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
11 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
12 reasonable attorneys' fees in connection with their unfair competition claims.

13 126. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
14 himself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
15 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
16 and unfair business practices.

17 127. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
18 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
19 reasonable attorneys' fees in connection with their unfair competition claims.

20 **PRAYER FOR RELIEF**

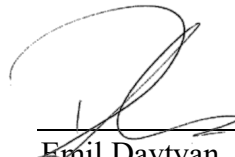
21 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general
22 public, prays for relief and judgment against Defendants as follows:

- 23 a. An order that the action be certified as a class action;
- 24 b. An order that Plaintiff be appointed class representative;
- 25 c. An order that counsel for Plaintiff be appointed class counsel;
- 26 d. Unpaid wages and overtime;
- 27 e. Actual damages;
- 28 f. Liquidated damages;

- 1 g. Restitution;
2 h. Declaratory relief;
3 i. Pre-judgment interest;
4 j. Statutory penalties;
5 k. Costs of suit;
6 l. Reasonable attorneys' fees; and
7 m. Such other relief as the Court deems just and proper.
8

9 Dated: September 20, 2023

D.LAW, INC.

10
11 

12 _____
13 Emil Davtyan
14 David Yeremian
15 David Keledjian
16 David Arakelyan
17 Attorneys for Plaintiff
18 HUMBERTO MONTOYA, and the putative class

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff, on behalf of himself, all other similarly situated, and the general public, hereby
18 demands a jury trial on all issues so triable.
19

20 Dated: September 20, 2023

D.LAW, INC.

21
22 

23 _____
24 Emil Davtyan
25 David Yeremian
26 David Keledjian
27 David Arakelyan
28 Attorneys for Plaintiff
HUMBERTO MONTOYA, and the putative class

EXHIBIT 3

Montoya v. East Bay Tire Co.

Litigation Costs

Service Date		Details		Provider		Amount
9/20/23		LWDA Letter		LWDA		\$ 75.00
9/20/23		LWDA Letter Postage		USPS		\$ 9.10
9/20/23		Summons & Complaint		Rapid Legal		\$ 1,606.80
10/3/23		Process of Service - Summons & Complaint - Express Services		Rapid Legal		\$ 82.40
10/17/23		Process of Service - Summons & Complaint - East Bay Tire Co.		Rapid Legal		\$ 123.60
10/18/23		POS of Summons - Express Services, Inc.		Rapid Legal		\$ 87.55
10/25/23		POS of Summons - East Bay Tire Co.		Rapid Legal		\$ 87.55
11/15/23		Joint Stipulation to Extend Def Response Deadline		Rapid Legal		\$ 108.15
11/22/23		First Amended Complaint		Rapid Legal		\$ 128.75
12/4/23		Request for Dismissal - Express Services, Inc.		Rapid Legal		\$ 87.55
12/22/23		Notice of Unavailability		Rapid Legal		\$ 87.55
1/8/24		Request for Dismissal of Action		Rapid Legal		\$ 87.55
2/28/24		Arbitration Fee		American Arbitration Association		\$ 360.50
6/3/24		Joint Case Management Conference Statement		Rapid Legal		\$ 14.37
7/30/24		Arbitrator Deposit		American Arbitration Association		\$ 2,025.00
8/7/24		Notice		Rapid Legal		\$ 14.37
10/3/24		Notice of Change of Address		Rapid Legal		\$ 14.94
5/9/25		Mediation		Giamela Mediation		\$ 5,000.00
5/29/25		Expert Mediation Analysis		Rapid Legal		\$ 5,895.00
FUTURE		Motion for PAGA Approval of Settlement		Rapid Legal		\$ 85.00
FUTURE		Decl of Class Admin re Final Distribution		Rapid Legal		\$ 18.00
FUTURE		Ntc of Entry of Final Order & Judgment		Rapid Legal		\$ 18.00

Total \$ 16,016.73

EXHIBIT 4

Attorney	Total Time	Rate	Total Billable Amount
David Arakelyan	37.9	\$ 585.00	\$ 22,171.50
Kevin Burns	30.6	\$ 475.00	\$ 14,535.00
Norayr Zakaryan	18.6	\$ 475.00	\$ 8,835.00
Enoch Kim	12.0	\$ 1,045.00	\$ 12,540.00
David Keledjian	2.6	\$ 925.00	\$ 2,405.00
Total	101.7		\$ 60,486.50

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	9/28/23	0.1	David Arakelyan	Follow up on the status of the complaint/filing
207762	Montoya v. East Bay Tire Co	9/29/23	0.7	David Arakelyan	Review personnel file and documents for WT claims; draft WT intake
207762	Montoya v. East Bay Tire Co	9/29/23	0.1	David Arakelyan	Call/voicemail for client re: WT intake
207762	Montoya v. East Bay Tire Co	10/2/23	0.2	David Arakelyan	Review court docket, Rapid Legals docs, and update the case list
207762	Montoya v. East Bay Tire Co	10/4/23	0.4	David Arakelyan	WT intake call with client
207762	Montoya v. East Bay Tire Co	10/5/23	0.1	David Arakelyan	Call/text to client (no response)
207762	Montoya v. East Bay Tire Co	10/5/23	0.1	David Arakelyan	Call/email with client re: not taking WT claims
207762	Montoya v. East Bay Tire Co	10/10/23	0.1	David Arakelyan	Follow up on service of docs with Rapid Legal and Court
207762	Montoya v. East Bay Tire Co	10/18/23	0.1	David Arakelyan	Check Rapid Legal re POSS on East Bay Tire; email Rapid Legal for update
207762	Montoya v. East Bay Tire Co	10/20/23	0.2	David Arakelyan	Confirm service on both D's and POSS on Rapid Legal; f/up with JF re: filing with court
207762	Montoya v. East Bay Tire Co	10/25/23	0.1	David Arakelyan	Follow up with Court and Rapid Legal re: submission of POSS (submitted; not on court docket)
207762	Montoya v. East Bay Tire Co	10/26/23	0.2	David Arakelyan	Review/reply to OC's email, including e-service agreement
207762	Montoya v. East Bay Tire Co	10/27/23	0.5	David Arakelyan	Draft stipulation re: pleading deadline
207762	Montoya v. East Bay Tire Co	10/30/23	0.1	David Arakelyan	Email OC re: e-service list
207762	Montoya v. East Bay Tire Co	10/30/23	0.1	David Arakelyan	Update case sheet with info on OC; review docket
207762	Montoya v. East Bay Tire Co	10/31/23	1.5	Kevin Burns	Drafted discovery requests
207762	Montoya v. East Bay Tire Co	10/31/23	0.2	David Arakelyan	Review discovery
207762	Montoya v. East Bay Tire Co	11/1/23	0.2	David Arakelyan	Confirm POSS filing for D Express with Court; f/up on status of East Bay
207762	Montoya v. East Bay Tire Co	11/1/23	0.2	David Arakelyan	Email OC re: stipulation
207762	Montoya v. East Bay Tire Co	11/3/23	0.2	David Arakelyan	Conversation from client re: other class members potentially joining the lawsuit; provided our contact information
207762	Montoya v. East Bay Tire Co	11/7/23	0.1	David Arakelyan	Follow up on status of East Bay POSS; not on court docket yet
207762	Montoya v. East Bay Tire Co	11/13/23	0.3	David Arakelyan	Phone call with client re: arbitration agreement, signing/circumstances, etc.
207762	Montoya v. East Bay Tire Co	11/13/23	0.6	David Arakelyan	Review of arbitration agreement and written report to DK
207762	Montoya v. East Bay Tire Co	11/14/23	0.1	David Arakelyan	Followed up with JF re: stipulation; created task;
207762	Montoya v. East Bay Tire Co	11/14/23	0.1	David Arakelyan	Follow up re: status of answer and PAGA complaint; assign drafting to KB
207762	Montoya v. East Bay Tire Co	11/15/23	0.2	Kevin Burns	Drafted FAC adding PAGA
207762	Montoya v. East Bay Tire Co	11/16/23	0.2	David Arakelyan	Amend PAGA letter
207762	Montoya v. East Bay Tire Co	11/20/23	0.1	David Arakelyan	Call/vm for the client
207762	Montoya v. East Bay Tire Co	11/21/23	0.1	David Arakelyan	Call/confirmation email to client re: dismissal of Express Services
207762	Montoya v. East Bay Tire Co	11/27/23	0.1	David Arakelyan	Follow up with court re: stipulations (not signed yet)
207762	Montoya v. East Bay Tire Co	12/6/23	0.1	David Arakelyan	Reivew OC email re: arbitration with East Bay; locate and compare arb produced by Express; note to DK
207762	Montoya v. East Bay Tire Co	12/6/23	0.3	David Arakelyan	Review arbitration agreement from East Bay; note to DK
207762	Montoya v. East Bay Tire Co	12/6/23	0.1	David Arakelyan	Email response to OC re: arbitration docs/evidence
207762	Montoya v. East Bay Tire Co	12/13/23	0.1	David Arakelyan	Follow up on the status of dismissal; retrieve court order re: extension of responsive pleading deadline
207762	Montoya v. East Bay Tire Co	12/19/23	0.1	David Arakelyan	Call and voicemail for client
207762	Montoya v. East Bay Tire Co	12/20/23	0.1	David Arakelyan	Confirm dismissal of Express; retrieve order and ask JF to add to file; update case sheet
207762	Montoya v. East Bay Tire Co	12/20/23	0.2	David Arakelyan	Call and email follow up with client re: dismissal and minimum demand re: East Bay
207762	Montoya v. East Bay Tire Co	12/22/23	0.2	David Arakelyan	Assign tasks related to dismissal; update case list; send note to DK
207762	Montoya v. East Bay Tire Co	12/22/23	0.9	Kevin Burns	Drafted dismissal of class claims; kept PAGA claims separate from dismissal
207762	Montoya v. East Bay Tire Co	1/5/24	0.2	David Arakelyan	Review case status and update case notes; note to DK re: dismissal
207762	Montoya v. East Bay Tire Co	1/8/24	0.2	Kevin Burns	Spoke with client on phone about declining wrongful termination claims
207762	Montoya v. East Bay Tire Co	1/17/24	0.2	David Arakelyan	Update the arb demand to include Defendant Express; locate and exhibit Express Arb Agreement
207762	Montoya v. East Bay Tire Co	1/17/24	0.1	David Arakelyan	Review summary and FAC re: PAGA-only issues
207762	Montoya v. East Bay Tire Co	1/17/24	0.6	David Arakelyan	Draft discovery
207762	Montoya v. East Bay Tire Co	1/22/24	0.1	David Arakelyan	Check status of dismissal order (not signed)
207762	Montoya v. East Bay Tire Co	1/24/24	0.1	David Arakelyan	Confirm dismissal order still pending with the Court
207762	Montoya v. East Bay Tire Co	1/30/24	0.1	David Arakelyan	Follow up on status of dismissal (no signed order)
207762	Montoya v. East Bay Tire Co	2/6/24	0.1	David Arakelyan	Confirm Express is part of Arb demand
207762	Montoya v. East Bay Tire Co	2/6/24	0.1	David Arakelyan	Email OC re: dismissal order signed by court
207762	Montoya v. East Bay Tire Co	2/6/24	0.1	David Arakelyan	Retrieve court order re: dismissal; title; create task for JF for filing
207762	Montoya v. East Bay Tire Co	2/6/24	0.3	David Arakelyan	Review and update discovery requests; follow up with JF re: service
207762	Montoya v. East Bay Tire Co	2/6/24	0.2	David Arakelyan	Check status of arb demand; create a task for it
207762	Montoya v. East Bay Tire Co	2/7/24	0.1	David Arakelyan	Follow up with JF re: filing of the order granting dismissal
207762	Montoya v. East Bay Tire Co	2/7/24	0.4	David Arakelyan	Submit arbitration demand to AAA
207762	Montoya v. East Bay Tire Co	2/7/24	0.1	David Arakelyan	Email JF with instructions re: service of arbitration demand; create task in Ring Central
207762	Montoya v. East Bay Tire Co	2/7/24	0.1	David Arakelyan	Update case notes
207762	Montoya v. East Bay Tire Co	2/14/24	0.1	David Arakelyan	Confirm PAGA discovery service; update due date on board and case sheet
207762	Montoya v. East Bay Tire Co	2/14/24	0.2	David Arakelyan	Follow up on arbitration: check AAA profile; task for JF for service; follow up on case number and update notes in case sheet
207762	Montoya v. East Bay Tire Co	2/23/24	0.3	David Arakelyan	Respond to AAA email re: counsel; look up information
207762	Montoya v. East Bay Tire Co	2/27/24	0.1	David Arakelyan	Reply to OC re: call this week
207762	Montoya v. East Bay Tire Co	2/27/24	0.1	David Arakelyan	Send invitation to OC re: call on Thursday
207762	Montoya v. East Bay Tire Co	2/28/24	0.1	David Arakelyan	Review fee provisions of both arb agreements
207762	Montoya v. East Bay Tire Co	2/28/24	0.1	David Arakelyan	Email DK and DY re: fee payment authorization
207762	Montoya v. East Bay Tire Co	2/28/24	0.1	David Arakelyan	Review POS of Arb demand to ensure proper service enacted
207762	Montoya v. East Bay Tire Co	2/28/24	0.3	David Arakelyan	Process payment for arbitration invoice; send confirmation to JF
207762	Montoya v. East Bay Tire Co	2/29/24	0.1	David Arakelyan	Review invoice and arbitration docs sent from AAA; follow up with JF re: tasks on invoice payment; reminder in Ring to follow up after deadline
207762	Montoya v. East Bay Tire Co	3/1/24	0.2	David Arakelyan	Follow up on the new invoice issued: review, calendar, f/up with JF
207762	Montoya v. East Bay Tire Co	3/1/24	0.1	David Arakelyan	Grant extension to D's discovery deadline; update calendar

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	3/1/24	0.3	David Arakelyan	Meet and confer call with OC re: individual settlement, arbitration, PAGA, etc.
207762	Montoya v. East Bay Tire Co	3/1/24	0.4	David Arakelyan	Do damage analysis for client; review docs re: employment period, etc.
207762	Montoya v. East Bay Tire Co	3/1/24	0.1	David Arakelyan	Call/voicemail to client
207762	Montoya v. East Bay Tire Co	3/1/24	0.2	David Arakelyan	Email DY and DK re: damages and settlement/call with OC
207762	Montoya v. East Bay Tire Co	3/5/24	0.1	David Arakelyan	Respond to AAA re: arbitration location; review of summary
207762	Montoya v. East Bay Tire Co	3/5/24	0.3	David Arakelyan	Call with client re: arbitration, immigration attorney referral, etc.
207762	Montoya v. East Bay Tire Co	3/5/24	0.1	David Arakelyan	Email confirmation re: minimum demand
207762	Montoya v. East Bay Tire Co	3/6/24	0.2	David Arakelyan	Review case developments and court docket; update case sheet
207762	Montoya v. East Bay Tire Co	3/6/24	0.1	David Arakelyan	Review AAA portal for information update, etc.
207762	Montoya v. East Bay Tire Co	3/6/24	0.1	David Arakelyan	Email OC re: serving client directly
207762	Montoya v. East Bay Tire Co	3/7/24	0.1	David Arakelyan	Call with and email to client re: authorization to send settlement offer
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Draft/send settlement offer email to Express Defendant
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Discuss arbitration venue with DK
207762	Montoya v. East Bay Tire Co	3/7/24	0.1	David Arakelyan	Email AAA re: venue in Sacramento
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Discuss settlement-related issues and demand with DK
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Review, calendar and print AAA strike and conflict lists and related paperwork
207762	Montoya v. East Bay Tire Co	3/7/24	0.5	David Arakelyan	Research arbitrators; create rank and strike list; email DK and DY for review
207762	Montoya v. East Bay Tire Co	3/8/24	0.2	David Arakelyan	Update strike/rank list; email DK/DY
207762	Montoya v. East Bay Tire Co	3/15/24	0.2	David Arakelyan	Follow up on status of arbitration issues; update case list and tasks
207762	Montoya v. East Bay Tire Co	3/15/24	0.2	David Arakelyan	Retrieve CMO; follow up with JF re: calendaring; update case sheet and CMC sheet; review CMO re: deadlines
207762	Montoya v. East Bay Tire Co	3/20/24	0.1	David Arakelyan	Call/vm and email to client re: speaking re: settlement
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Draft email to OC re: counteroffer
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Call with/email to client re: settlement
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Follow up with DY re: rank/strike list
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Reply to DK email re: opposing counsel in arbitration
207762	Montoya v. East Bay Tire Co	3/22/24	0.4	David Arakelyan	Update the rank/strike list and fill out the conflicts checklist
207762	Montoya v. East Bay Tire Co	3/22/24	0.1	David Arakelyan	Email strike list and conflicts check to AAA
207762	Montoya v. East Bay Tire Co	3/22/24	0.1	David Arakelyan	Review case status and pending items; update case sheet; note to DK
207762	Montoya v. East Bay Tire Co	3/26/24	0.1	David Arakelyan	Respond to Express OC re: meet/confer
207762	Montoya v. East Bay Tire Co	3/26/24	0.1	David Arakelyan	Send email/Teams invite to OC re: meet/confer
207762	Montoya v. East Bay Tire Co	3/27/24	0.2	David Arakelyan	Call with OC re: settlement
207762	Montoya v. East Bay Tire Co	3/28/24	0.4	David Arakelyan	Retrieve and add all costs on a spreadsheet; allocate between two D's
207762	Montoya v. East Bay Tire Co	3/28/24	0.2	David Arakelyan	Email DK re: costs, offer, counters, and potential new demand
207762	Montoya v. East Bay Tire Co	3/29/24	0.1	David Arakelyan	Case follow up: review AAA page; notes to DK re: arbitration and invoice; update notes
207762	Montoya v. East Bay Tire Co	3/29/24	0.1	David Arakelyan	Discuss settlement issues with DK
207762	Montoya v. East Bay Tire Co	4/1/24	0.2	David Arakelyan	Call and email follow up with client re: minimum demand, settlement offer, and counter
207762	Montoya v. East Bay Tire Co	4/1/24	0.1	David Arakelyan	Email counteroffer to OC
207762	Montoya v. East Bay Tire Co	4/2/24	0.2	David Arakelyan	Follow up with AAA re: invoice payment; email to case manager
207762	Montoya v. East Bay Tire Co	4/3/24	0.2	David Arakelyan	Follow up with DK re: offer history, AAA situation and client minimum demand
207762	Montoya v. East Bay Tire Co	4/3/24	0.1	David Arakelyan	Confirmed timely invoice payment for AAA; asked JF to add to file; updated notes
207762	Montoya v. East Bay Tire Co	4/3/24	0.2	David Arakelyan	Call and confirmatory email with client re: settlement
207762	Montoya v. East Bay Tire Co	4/3/24	0.1	David Arakelyan	Email OC accepting settlement offer
207762	Montoya v. East Bay Tire Co	4/8/24	0.7	David Arakelyan	Review and make changes to the Settlement Agreement
207762	Montoya v. East Bay Tire Co	4/8/24	0.1	David Arakelyan	Update and finalize Opp to MTC arb
207762	Montoya v. East Bay Tire Co	4/9/24	0.1	David Arakelyan	Follow up on strike list; create tasks; email to JF re: calendaring
207762	Montoya v. East Bay Tire Co	4/12/24	0.1	David Arakelyan	Discuss SA and carve out of Defendant East Bay from SA
207762	Montoya v. East Bay Tire Co	4/15/24	0.7	David Arakelyan	Review, take notes, and rank arbitrators; send list to DK and DY with comments
207762	Montoya v. East Bay Tire Co	4/19/24	0.1	David Arakelyan	Review status of settlement agreement and note to DK for follow up
207762	Montoya v. East Bay Tire Co	4/19/24	0.2	David Arakelyan	Follow up with DK and DY re: strike list
207762	Montoya v. East Bay Tire Co	4/19/24	0.1	David Arakelyan	Follow up on status of discovery; update notes
207762	Montoya v. East Bay Tire Co	4/19/24	0.2	David Arakelyan	Review settlement agreement issues with DK
207762	Montoya v. East Bay Tire Co	4/19/24	0.1	David Arakelyan	Discuss strike list with DK
207762	Montoya v. East Bay Tire Co	4/22/24	0.1	David Arakelyan	Discuss arbitrator list with DY
207762	Montoya v. East Bay Tire Co	4/22/24	0.2	David Arakelyan	Discuss CELA arbitrator feedback with Jean
207762	Montoya v. East Bay Tire Co	4/22/24	0.8	David Arakelyan	Rank, strike arbitrators; discuss with DK; submit on website
207762	Montoya v. East Bay Tire Co	4/23/24	0.1	David Arakelyan	Reminder to DK re: reviewing SA
207762	Montoya v. East Bay Tire Co	4/29/24	0.2	David Arakelyan	Review settlement agreement with DK and make final changes
207762	Montoya v. East Bay Tire Co	4/29/24	0.1	David Arakelyan	Email OC with copy of redlined settlement agreement
207762	Montoya v. East Bay Tire Co	5/2/24	0.2	David Arakelyan	Review AAA email re: arbitrator; draft note to DK re: deadlines and tasks
207762	Montoya v. East Bay Tire Co	5/3/24	0.1	David Arakelyan	Discuss arbitration and settlement-related issues with DK
207762	Montoya v. East Bay Tire Co	5/3/24	0.1	David Arakelyan	Email AAA re: extending deadline to respond to arbitrator selection
207762	Montoya v. East Bay Tire Co	5/3/24	0.1	David Arakelyan	Email East Bay OC re: discussing arbitrators
207762	Montoya v. East Bay Tire Co	5/6/24	0.1	David Arakelyan	Send Defendant invite for tomorrow's meet/confer call
207762	Montoya v. East Bay Tire Co	5/7/24	0.4	David Arakelyan	Call with OC re: arbitration and PAGA discovery
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Review both lists of arbitrators and rank based on past evaluations
207762	Montoya v. East Bay Tire Co	5/7/24	0.2	David Arakelyan	Review list of OC arbitrators; compare to ours;
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Confirm discovery extension via email
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Email OC re: arbitrators
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Discuss arbitrator issue with DK
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Email OC re: settlement agreement
207762	Montoya v. East Bay Tire Co	5/10/24	0.5	David Arakelyan	Review OC revisions to settlement agreement; send comments to DK and DY
207762	Montoya v. East Bay Tire Co	5/13/24	0.1	David Arakelyan	Email OC re: confirming arbitrator

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	5/13/24	0.1	David Arakelyan	Follow up on outstanding case items: check docket, update case sheet, create tasks
207762	Montoya v. East Bay Tire Co	5/14/24	0.1	David Arakelyan	Email AAA confirming arbitrator selection
207762	Montoya v. East Bay Tire Co	5/15/24	0.1	David Arakelyan	Review email from the AAA re: declining to serve as arbitrator
207762	Montoya v. East Bay Tire Co	5/15/24	0.1	David Arakelyan	Email OC re: sending Rukin's name to AAA if no response by noon
207762	Montoya v. East Bay Tire Co	5/15/24	0.1	David Arakelyan	Email AAA re: new arbitrator selection
207762	Montoya v. East Bay Tire Co	5/15/24	0.5	David Arakelyan	Review SA changes from OC with DK; draft additional changes
207762	Montoya v. East Bay Tire Co	5/21/24	0.1	David Arakelyan	Follow up with DK re: settlement with Express
207762	Montoya v. East Bay Tire Co	5/21/24	0.2	David Arakelyan	Review arbitrator appointment paperwork; forward to JF for adding to file
207762	Montoya v. East Bay Tire Co	5/21/24	0.1	David Arakelyan	Email AAA re: waiving disqualification period
207762	Montoya v. East Bay Tire Co	5/22/24	0.1	David Arakelyan	Respond to OC request for discovery extension; discuss with DK
207762	Montoya v. East Bay Tire Co	5/24/24	0.5	David Arakelyan	Draft CMS
207762	Montoya v. East Bay Tire Co	5/24/24	0.1	David Arakelyan	Email OC with draft cms
207762	Montoya v. East Bay Tire Co	5/28/24	0.3	David Arakelyan	Review and revise the settlement agreement with DK
207762	Montoya v. East Bay Tire Co	5/28/24	0.1	David Arakelyan	Email OC re: settlement agreement
207762	Montoya v. East Bay Tire Co	5/29/24	0.1	David Arakelyan	Finalize settlement agreement; convert to PDF; prepare for signing
207762	Montoya v. East Bay Tire Co	5/29/24	0.1	David Arakelyan	Send SA to OC
207762	Montoya v. East Bay Tire Co	5/30/24	0.2	David Arakelyan	Call with client re: settlement agreement and timeline for payment
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Email OC with signed settlement agreement and reminder re: payment date
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Create task/reminder re: payment deadline
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Forward AAA invoices to JF; follow up with JF re: calendaring; create task to follow up
207762	Montoya v. East Bay Tire Co	5/30/24	0.2	David Arakelyan	Review settlement agreement re: W-9 provisions
207762	Montoya v. East Bay Tire Co	5/30/24	0.2	David Arakelyan	Call with client re: W-9 info; answer questions re: settlement
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Draft W-9
207762	Montoya v. East Bay Tire Co	5/31/24	0.1	David Arakelyan	Call/text client re: signing W-9
207762	Montoya v. East Bay Tire Co	6/5/24	0.1	David Arakelyan	Review dismissal-related issues; update tasks re: post-settlement dismissal
207762	Montoya v. East Bay Tire Co	6/5/24	0.1	David Arakelyan	Check status of CMC (on calendar)
207762	Montoya v. East Bay Tire Co	6/6/24	0.1	David Arakelyan	Reply to OC re: call
207762	Montoya v. East Bay Tire Co	6/6/24	0.2	David Arakelyan	Review discovery responses and MTC deadlines; follow up with JF re: calendaring
207762	Montoya v. East Bay Tire Co	6/7/24	0.1	David Arakelyan	Look up mediator Darren Cohen
207762	Montoya v. East Bay Tire Co	6/7/24	0.2	David Arakelyan	Follow up on CMC: retrieve tentative; create tasks; update CMC sheet and case sheet
207762	Montoya v. East Bay Tire Co	6/7/24	0.1	David Arakelyan	Email OC in Express re: CMC and dismissals
207762	Montoya v. East Bay Tire Co	6/7/24	0.1	David Arakelyan	Email AAA re: settling claims against Express
207762	Montoya v. East Bay Tire Co	6/7/24	0.6	David Arakelyan	Call with OC re: PAGA case, mediation, client's claims, review wage statements, etc.
207762	Montoya v. East Bay Tire Co	6/11/24	0.2	David Arakelyan	Email DK and DY with updates re: call with OC
207762	Montoya v. East Bay Tire Co	6/12/24	0.2	David Arakelyan	Discuss PAGA dismissal and convo with OC with DK
207762	Montoya v. East Bay Tire Co	6/13/24	0.2	David Arakelyan	Review summary and create task for DY re: claims and IND settlement
207762	Montoya v. East Bay Tire Co	6/13/24	0.1	David Arakelyan	Email OC re: tomorrow's call
207762	Montoya v. East Bay Tire Co	6/17/24	0.2	David Arakelyan	Follow up on AAA Mgmt Conference: retrieve files, calendar events and deadlines; send to JF for filing;
207762	Montoya v. East Bay Tire Co	6/20/24	0.8	David Arakelyan	Draft arbitration pre-hearing report
207762	Montoya v. East Bay Tire Co	6/20/24	0.4	David Arakelyan	Meet and confer call with OC re: arbitration and PAGA settlement
207762	Montoya v. East Bay Tire Co	6/20/24	0.1	David Arakelyan	Follow up with Natalia re: settlement checks
207762	Montoya v. East Bay Tire Co	6/20/24	0.1	David Arakelyan	Email OC re: settlement check
207762	Montoya v. East Bay Tire Co	6/20/24	0.2	David Arakelyan	Discuss case with DY re: violations, mediation, etc.
207762	Montoya v. East Bay Tire Co	6/21/24	0.2	David Arakelyan	Revise and finalize joint report to AAA
207762	Montoya v. East Bay Tire Co	6/21/24	0.1	David Arakelyan	Email OC re: joint report
207762	Montoya v. East Bay Tire Co	6/21/24	0.2	David Arakelyan	Upload joint report to AAA
207762	Montoya v. East Bay Tire Co	6/22/24	0.2	David Arakelyan	Research dismissal procedure re: AAA
207762	Montoya v. East Bay Tire Co	6/22/24	0.2	David Arakelyan	Email AAA/Denise Crow re: dismissal of claims against Express
207762	Montoya v. East Bay Tire Co	6/22/24	0.1	David Arakelyan	Retrieve and review order dismissing Express from Superior Court lawsuit
207762	Montoya v. East Bay Tire Co	6/22/24	0.1	David Arakelyan	Email OC re: dismissals
207762	Montoya v. East Bay Tire Co	6/24/24	0.1	David Arakelyan	Conversation with JF re: checks
207762	Montoya v. East Bay Tire Co	6/26/24	0.2	David Arakelyan	Prepare for Arb CMC
207762	Montoya v. East Bay Tire Co	6/26/24	0.6	David Arakelyan	AAA CMC appearance
207762	Montoya v. East Bay Tire Co	6/26/24	0.2	David Arakelyan	Update case list and CMC sheet with dates and deadlines
207762	Montoya v. East Bay Tire Co	6/28/24	0.6	David Arakelyan	Review and analyze paystubs for regular rate issues and violations per convo with OC
207762	Montoya v. East Bay Tire Co	6/28/24	0.3	David Arakelyan	Review scheduling order and invoice; update case sheet and follow up with JF re: dates and deadlines
207762	Montoya v. East Bay Tire Co	7/2/24	0.2	David Arakelyan	Draft/send email to AAA re: invoice status
207762	Montoya v. East Bay Tire Co	7/2/24	0.1	David Arakelyan	Retrieve invoice payment confirmation; follow up with JF re: filing
207762	Montoya v. East Bay Tire Co	7/9/24	0.2	David Arakelyan	Report to DY re: case violations and potential mediation
207762	Montoya v. East Bay Tire Co	7/15/24	0.2	David Arakelyan	Draft/send email to OC re: not dismissing claims and potential mediation
207762	Montoya v. East Bay Tire Co	7/16/24	0.1	David Arakelyan	Review OC email response
207762	Montoya v. East Bay Tire Co	7/30/24	0.2	David Arakelyan	Email AAA re: arbitration invoice; request for payment
207762	Montoya v. East Bay Tire Co	8/5/24	0.2	David Arakelyan	Review case status and add notes re: follow up; create tasks; update case notes
207762	Montoya v. East Bay Tire Co	8/14/24	0.1	David Arakelyan	Email OC re: MTC extension
207762	Montoya v. East Bay Tire Co	9/3/24	0.1	David Arakelyan	Retrieve call info re: CMC; send to JF and Rose for calendaring; email AAA to remove me from service list
207762	Montoya v. East Bay Tire Co	9/26/24	0.1	Kevin Burns	Checked case status for JF.
207762	Montoya v. East Bay Tire Co	10/4/24	0.1	Kevin Burns	Emailled OC introducing myself as new associate, continuing mediation planning, asking for extension to MtC.
207762	Montoya v. East Bay Tire Co	10/28/24	0.4	Kevin Burns	Prep for call with OC, call with OC to discuss mediation, arbitration, individual settlement and next steps.

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	12/6/24	0.4	Kevin Burns	Emailled potential mediator and OC about scheduling mediation and mediation data request.
207762	Montoya v. East Bay Tire Co	1/17/25	0.4	Kevin Burns	Email correspondence with OC about scheduling mediation.
207762	Montoya v. East Bay Tire Co	1/23/25	0.3	Kevin Burns	Emailled mediator confirmation of date and request for scheduling, included OC in email.
207762	Montoya v. East Bay Tire Co	2/6/25	0.4	Kevin Burns	Sent mediator operative complaint and OC mediation data request.
207762	Montoya v. East Bay Tire Co	3/25/25	0.3	Kevin Burns	Reviewed email from OC and arbitrator, sent email response.
207762	Montoya v. East Bay Tire Co	4/4/25	0.2	Kevin Burns	Sent email follow-up to OC for mediation production.
207762	Montoya v. East Bay Tire Co	4/30/25	1.9	Kevin Burns	Reviewed materials for mediation, reviewed data analysis for mediation, emailed OC about missing documents.
207762	Montoya v. East Bay Tire Co	5/1/25	3.1	Kevin Burns	Reviewed handbook for mediation brief prep.
207762	Montoya v. East Bay Tire Co	5/6/25	6.8	Kevin Burns	Work on mediation brief, reviewed handbooks/policies produced by Defendant, reviewed data and data analysis.
207762	Montoya v. East Bay Tire Co	5/7/25	1.6	Kevin Burns	Finished drafting mediation brief, prepared for mediation.
207762	Montoya v. East Bay Tire Co	5/9/25	1.2	Kevin Burns	Talked to client ahead of mediation, gathered facts and info.
207762	Montoya v. East Bay Tire Co	5/9/25	6.6	Kevin Burns	Appearance at mediation.
207762	Montoya v. East Bay Tire Co	5/23/25	0.4	Kevin Burns	Case check-in post mediation, and email to arbitration case manager requesting documents for payments pursuant to invoices.
207762	Montoya v. East Bay Tire Co	6/5/25	1.6	Kevin Burns	Communications internally and with OC about settlement agreement, confirmed with client about settlement offer, reviewed and communicated to accept enhancement.
207762	Montoya v. East Bay Tire Co	6/23/25	2.6	David Keledjian	Review and Revise Long Form PAGa Settlement.
207762	Montoya v. East Bay Tire Co	6/25/25	0.4	Kevin Burns	Reviewed edits to settlement agreement, made change and sent to OC for review.
207762	Montoya v. East Bay Tire Co	6/30/25	0.2	Kevin Burns	Reviewed case status and next hearing date, added to calendar.
207762	Montoya v. East Bay Tire Co	7/1/25	0.7	Kevin Burns	Reviewed accepted and rejected redlines OC sent back, set up call to go over remaining issues in settlement agreement.
207762	Montoya v. East Bay Tire Co	7/7/25	0.3	Kevin Burns	Reviewed emails from OC and arbitrator, sent responses.
207762	Montoya v. East Bay Tire Co	7/8/25	0.3	Kevin Burns	Correspondence with OC about handing case off to settlement team.
207762	Montoya v. East Bay Tire Co	7/10/25	0.1	Kevin Burns	Viewed text from client, responded.
207762	Montoya v. East Bay Tire Co	7/15/25	0.9	Norayr Zakaryan	conferred with OC, scheduled a conference call, reviewing the procedural history of the the case. Conferring with litigation team
207762	Montoya v. East Bay Tire Co	7/16/25	0.5	Norayr Zakaryan	reviewing the settlement agreement draft
207762	Montoya v. East Bay Tire Co	7/16/25	0.5	Norayr Zakaryan	call with opposing counsel, went over the long form - conferred with senior counsel
207762	Montoya v. East Bay Tire Co	7/25/25	0.8	Enoch Kim	Review and revise settlement agreement; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	7/28/25	2.9	Enoch Kim	Review and revise PAGA settlement agreement; confer with team re same.
207762	Montoya v. East Bay Tire Co	7/29/25	0.4	Norayr Zakaryan	finalizing our redlines on the LFA to be shared with OC. Shared the LFA draft with OC
207762	Montoya v. East Bay Tire Co	7/30/25	0.8	Enoch Kim	Exchange emails with defense counsel re settlement agreement; review revisions to settlement agreement and consider next steps.
207762	Montoya v. East Bay Tire Co	7/31/25	0.3	Norayr Zakaryan	conference call with OC regarding the long form
207762	Montoya v. East Bay Tire Co	7/31/25	0.3	Norayr Zakaryan	checking records, conferred with senior counsel and OC regarding total number of aggrieved employees
207762	Montoya v. East Bay Tire Co	7/31/25	0.5	Enoch Kim	Call with defense counsel re settlement agreement; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	7/31/25	1.0	Enoch Kim	Review and revise PAGA settlement agreement.
207762	Montoya v. East Bay Tire Co	8/6/25	0.7	Norayr Zakaryan	conferring with OC, and requesting quotes from administrators
207762	Montoya v. East Bay Tire Co	8/6/25	0.2	Norayr Zakaryan	conferring with senior counsel regarding LFA
207762	Montoya v. East Bay Tire Co	8/6/25	0.6	Enoch Kim	Review and revise settlement agreement; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	8/7/25	1.7	Norayr Zakaryan	drafting individual settlement agreement
207762	Montoya v. East Bay Tire Co	8/7/25	0.6	Norayr Zakaryan	conferring with senior counsel, called the client, sent a follow up email
207762	Montoya v. East Bay Tire Co	8/7/25	0.9	Norayr Zakaryan	conferring with senior counsel, revising agreement drafts
207762	Montoya v. East Bay Tire Co	8/7/25	1.2	Enoch Kim	Review and revise PAGA and individual settlement agreements; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	8/12/25	0.5	Norayr Zakaryan	reviewing settlement drafts for accuracy prior to sending for client's signature
207762	Montoya v. East Bay Tire Co	8/14/25	0.9	Norayr Zakaryan	reviewing the settlement agreement drafts for accuracy prior to sending to client for their signature, preparing for client call, left a voicemail to client to call back
207762	Montoya v. East Bay Tire Co	8/14/25	1.0	Norayr Zakaryan	talked with client and went over the terms of the settlement agreement, prepared a follow up email
207762	Montoya v. East Bay Tire Co	8/14/25	0.2	Enoch Kim	Confer with NZ re settlement payment to client; review email to client re settlement.
207762	Montoya v. East Bay Tire Co	9/29/25	0.2	Norayr Zakaryan	drafting PAGA Approval motion docs
207762	Montoya v. East Bay Tire Co	9/29/25	2.0	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/29/25	0.1	Norayr Zakaryan	conferred with opposing counsel regarding the approval motion status
207762	Montoya v. East Bay Tire Co	9/30/25	1.6	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/30/25	1.4	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/30/25	1.7	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/30/25	1.3	Norayr Zakaryan	drafted approval motion docs
207762	Montoya v. East Bay Tire Co	10/3/25	0.3	Norayr Zakaryan	researched local rule and revised approval motion docs
207762	Montoya v. East Bay Tire Co	10/10/25	3.8	Enoch Kim	Review and revise PAGA approval motion documents.
207762	Montoya v. East Bay Tire Co	10/10/25	0.2	Enoch Kim	Exchange email correspondence with defense counsel re PAGA approval motion.
207762	Montoya v. East Bay Tire Co	10/10/25	0.6	Norayr Zakaryan	revising approval motion docs

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	9/28/23	0.1	David Arakelyan	Follow up on the status of the complaint/filing
207762	Montoya v. East Bay Tire Co	9/29/23	0.7	David Arakelyan	Review personnel file and documents for WT claims; draft WT intake
207762	Montoya v. East Bay Tire Co	9/29/23	0.1	David Arakelyan	Call/voicemail for client re: WT intake
207762	Montoya v. East Bay Tire Co	10/2/23	0.2	David Arakelyan	Review court docket, Rapid Legals docs, and update the case list
207762	Montoya v. East Bay Tire Co	10/4/23	0.4	David Arakelyan	WT intake call with client
207762	Montoya v. East Bay Tire Co	10/5/23	0.1	David Arakelyan	Call/text to client (no response)
207762	Montoya v. East Bay Tire Co	10/5/23	0.1	David Arakelyan	Call/email with client re: not taking WT claims
207762	Montoya v. East Bay Tire Co	10/10/23	0.1	David Arakelyan	Follow up on service of docs with Rapid Legal and Court
207762	Montoya v. East Bay Tire Co	10/18/23	0.1	David Arakelyan	Check Rapid Legal re POSS on East Bay Tire; email Rapid Legal for update
207762	Montoya v. East Bay Tire Co	10/20/23	0.2	David Arakelyan	Confirm service on both D's and POSS on Rapid Legal; f/up with JF re: filing with court
207762	Montoya v. East Bay Tire Co	10/25/23	0.1	David Arakelyan	Follow up with Court and Rapid Legal re: submission of POSS (submitted; not on court docket)
207762	Montoya v. East Bay Tire Co	10/26/23	0.2	David Arakelyan	Review/reply to OC's email, including e-service agreement
207762	Montoya v. East Bay Tire Co	10/27/23	0.5	David Arakelyan	Draft stipulation re: pleading deadline
207762	Montoya v. East Bay Tire Co	10/30/23	0.1	David Arakelyan	Email OC re: e-service list
207762	Montoya v. East Bay Tire Co	10/30/23	0.1	David Arakelyan	Update case sheet with info on OC; review docket
207762	Montoya v. East Bay Tire Co	10/31/23	0.2	David Arakelyan	Review discovery
207762	Montoya v. East Bay Tire Co	11/1/23	0.2	David Arakelyan	Confirm POSS filing for D Express with Court; f/up on status of East Bay
207762	Montoya v. East Bay Tire Co	11/1/23	0.2	David Arakelyan	Email OC re: stipulation
207762	Montoya v. East Bay Tire Co	11/3/23	0.2	David Arakelyan	Conversation from client re: other class members potentially joining the lawsuit; provided our contact information
207762	Montoya v. East Bay Tire Co	11/7/23	0.1	David Arakelyan	Follow up on status of East Bay POSS; not on court docket yet
207762	Montoya v. East Bay Tire Co	11/13/23	0.3	David Arakelyan	Phone call with client re: arbitration agreement, signing/circumstances, etc.
207762	Montoya v. East Bay Tire Co	11/13/23	0.6	David Arakelyan	Review of arbitration agreement and written report to DK
207762	Montoya v. East Bay Tire Co	11/14/23	0.1	David Arakelyan	Followed up with JF re: stipulation; created task;
207762	Montoya v. East Bay Tire Co	11/14/23	0.1	David Arakelyan	Follow up re: status of answer and PAGA complaint; assign drafting to KB
207762	Montoya v. East Bay Tire Co	11/16/23	0.2	David Arakelyan	Amend PAGA letter
207762	Montoya v. East Bay Tire Co	11/20/23	0.1	David Arakelyan	Call/vm for the client
207762	Montoya v. East Bay Tire Co	11/21/23	0.1	David Arakelyan	Call/confirmation email to client re: dismissal of Express Services
207762	Montoya v. East Bay Tire Co	11/27/23	0.1	David Arakelyan	Follow up with court re: stipulations (not signed yet)
207762	Montoya v. East Bay Tire Co	12/6/23	0.1	David Arakelyan	Review OC email re: arbitration with East Bay; locate and compare arb produced by Express; note to DK
207762	Montoya v. East Bay Tire Co	12/6/23	0.3	David Arakelyan	Review arbitration agreement from East Bay; note to DK
207762	Montoya v. East Bay Tire Co	12/6/23	0.1	David Arakelyan	Email response to OC re: arbitration docs/evidence
207762	Montoya v. East Bay Tire Co	12/13/23	0.1	David Arakelyan	Follow up on the status of dismissal; retrieve court order re: extension of responsive pleading deadline
207762	Montoya v. East Bay Tire Co	12/19/23	0.1	David Arakelyan	Call and voicemail for client
207762	Montoya v. East Bay Tire Co	12/20/23	0.1	David Arakelyan	Confirm dismissal of Express; retrieve order and ask JF to add to file; update case sheet
207762	Montoya v. East Bay Tire Co	12/20/23	0.2	David Arakelyan	Call and email follow up with client re: dismissal and minimum demand re: East Bay
207762	Montoya v. East Bay Tire Co	12/22/23	0.2	David Arakelyan	Assign tasks related to dismissal; update case list; send note to DK
207762	Montoya v. East Bay Tire Co	1/5/24	0.2	David Arakelyan	Review case status and update case notes; note to DK re: dismissal
207762	Montoya v. East Bay Tire Co	1/17/24	0.2	David Arakelyan	Update the arb demand to include Defendant Express; locate and exhibit Express Arb Agreement
207762	Montoya v. East Bay Tire Co	1/17/24	0.1	David Arakelyan	Review summary and FAC re: PAGA-only issues
207762	Montoya v. East Bay Tire Co	1/17/24	0.6	David Arakelyan	Draft discovery
207762	Montoya v. East Bay Tire Co	1/22/24	0.1	David Arakelyan	Check status of dismissal order (not signed)
207762	Montoya v. East Bay Tire Co	1/24/24	0.1	David Arakelyan	Confirm dismissal order still pending with the Court
207762	Montoya v. East Bay Tire Co	1/30/24	0.1	David Arakelyan	Follow up on status of dismissal (no signed order)
207762	Montoya v. East Bay Tire Co	2/6/24	0.1	David Arakelyan	Confirm Express is part of Arb demand
207762	Montoya v. East Bay Tire Co	2/6/24	0.1	David Arakelyan	Email OC re: dismissal order signed by court
207762	Montoya v. East Bay Tire Co	2/6/24	0.1	David Arakelyan	Retrieve court order re: dismissal; title; create task for JF for filing
207762	Montoya v. East Bay Tire Co	2/6/24	0.3	David Arakelyan	Review and update discovery requests; follow up with JF re: service
207762	Montoya v. East Bay Tire Co	2/6/24	0.2	David Arakelyan	Check status of arb demand; create a task for it
207762	Montoya v. East Bay Tire Co	2/7/24	0.1	David Arakelyan	Follow up with JF re: filing of the order granting dismissal
207762	Montoya v. East Bay Tire Co	2/7/24	0.4	David Arakelyan	Submit arbitration demand to AAA
207762	Montoya v. East Bay Tire Co	2/7/24	0.1	David Arakelyan	Email JF with instructions re: service of arbitration demand; create task in Ring Central
207762	Montoya v. East Bay Tire Co	2/7/24	0.1	David Arakelyan	Update case notes
207762	Montoya v. East Bay Tire Co	2/14/24	0.1	David Arakelyan	Confirm PAGA discovery service; update due date on board and case sheet
207762	Montoya v. East Bay Tire Co	2/14/24	0.2	David Arakelyan	Follow up on arbitration: check AAA profile; task for JF for service; follow up on case number and update notes in case sheet
207762	Montoya v. East Bay Tire Co	2/23/24	0.3	David Arakelyan	Respond to AAA email re: counsel; look up information
207762	Montoya v. East Bay Tire Co	2/27/24	0.1	David Arakelyan	Reply to OC re: call this week
207762	Montoya v. East Bay Tire Co	2/27/24	0.1	David Arakelyan	Send invitation to OC re: call on Thursday
207762	Montoya v. East Bay Tire Co	2/28/24	0.1	David Arakelyan	Review fee provisions of both arb agreements
207762	Montoya v. East Bay Tire Co	2/28/24	0.1	David Arakelyan	Email DK and DY re: fee payment authorization
207762	Montoya v. East Bay Tire Co	2/28/24	0.1	David Arakelyan	Review POS of Arb demand to ensure proper service enacted
207762	Montoya v. East Bay Tire Co	2/28/24	0.3	David Arakelyan	Process payment for arbitration invoice; send confirmation to JF
207762	Montoya v. East Bay Tire Co	2/29/24	0.1	David Arakelyan	Review invoice and arbitration docs sent from AAA; follow up with JF re: tasks on invoice payment; reminder in Ring to follow up after deadline
207762	Montoya v. East Bay Tire Co	3/1/24	0.2	David Arakelyan	Follow up on the new invoice issued: review, calendar, f/up with JF
207762	Montoya v. East Bay Tire Co	3/1/24	0.1	David Arakelyan	Grant extension to D's discovery deadline; update calendar
207762	Montoya v. East Bay Tire Co	3/1/24	0.3	David Arakelyan	Meet and confer call with OC re: individual settlement, arbitration, PAGA, etc.
207762	Montoya v. East Bay Tire Co	3/1/24	0.4	David Arakelyan	Do damage analysis for client; review docs re: employment period, etc.
207762	Montoya v. East Bay Tire Co	3/1/24	0.1	David Arakelyan	Call/voicemail to client
207762	Montoya v. East Bay Tire Co	3/1/24	0.2	David Arakelyan	Email DY and DK re: damages and settlement/call with OC

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	3/5/24	0.1	David Arakelyan	Respond to AAA re: arbitration location; review of summary
207762	Montoya v. East Bay Tire Co	3/5/24	0.3	David Arakelyan	Call with client re: arbitration, immigration attorney referral, etc.
207762	Montoya v. East Bay Tire Co	3/5/24	0.1	David Arakelyan	Email confirmation re: minimum demand
207762	Montoya v. East Bay Tire Co	3/6/24	0.2	David Arakelyan	Review case developments and court docket; update case sheet
207762	Montoya v. East Bay Tire Co	3/6/24	0.1	David Arakelyan	Review AAA portal for information update, etc.
207762	Montoya v. East Bay Tire Co	3/6/24	0.1	David Arakelyan	Email OC re: serving client directly
207762	Montoya v. East Bay Tire Co	3/7/24	0.1	David Arakelyan	Call with and email to client re: authorization to send settlement offer
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Draft/send settlement offer email to Express Defendant
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Discuss arbitration venue with DK
207762	Montoya v. East Bay Tire Co	3/7/24	0.1	David Arakelyan	Email AAA re: venue in Sacramento
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Discuss settlement-related issues and demand with DK
207762	Montoya v. East Bay Tire Co	3/7/24	0.2	David Arakelyan	Review, calendar and print AAA strike and conflict lists and related paperwork
207762	Montoya v. East Bay Tire Co	3/7/24	0.5	David Arakelyan	Research arbitrators; create rank and strike list; email DK and DY for review
207762	Montoya v. East Bay Tire Co	3/8/24	0.2	David Arakelyan	Update strike/rank list; email DK/DY
207762	Montoya v. East Bay Tire Co	3/15/24	0.2	David Arakelyan	Follow up on status of arbitration issues; update case list and tasks
207762	Montoya v. East Bay Tire Co	3/15/24	0.2	David Arakelyan	Retrieve CMO; follow up with JF re: calendaring; update case sheet and CMC sheet; review CMO re: deadlines
207762	Montoya v. East Bay Tire Co	3/20/24	0.1	David Arakelyan	Call/vm and email to client re: speaking re: settlement
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Draft email to OC re: counteroffer
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Call with/email to client re: settlement
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Follow up with DY re: rank/strike list
207762	Montoya v. East Bay Tire Co	3/20/24	0.2	David Arakelyan	Reply to DK email re: opposing counsel in arbitration
207762	Montoya v. East Bay Tire Co	3/22/24	0.4	David Arakelyan	Update the rank/strike list and fill out the conflicts checklist
207762	Montoya v. East Bay Tire Co	3/22/24	0.1	David Arakelyan	Email strike list and conflicts check to AAA
207762	Montoya v. East Bay Tire Co	3/22/24	0.1	David Arakelyan	Review case status and pending items; update case sheet; note to DK
207762	Montoya v. East Bay Tire Co	3/26/24	0.1	David Arakelyan	Respond to Express OC re: meet/confer
207762	Montoya v. East Bay Tire Co	3/26/24	0.1	David Arakelyan	Send email/Teams invite to OC re: meet/confer
207762	Montoya v. East Bay Tire Co	3/27/24	0.2	David Arakelyan	Call with OC re: settlement
207762	Montoya v. East Bay Tire Co	3/28/24	0.4	David Arakelyan	Retrieve and add all costs on a spreadsheet; allocate between two D's
207762	Montoya v. East Bay Tire Co	3/28/24	0.2	David Arakelyan	Email DK re: costs, offer, counters, and potential new demand
207762	Montoya v. East Bay Tire Co	3/29/24	0.1	David Arakelyan	Case follow up: review AAA page; notes to DK re: arbitration and invoice; update notes
207762	Montoya v. East Bay Tire Co	3/29/24	0.1	David Arakelyan	Discuss settlement issues with DK
207762	Montoya v. East Bay Tire Co	4/1/24	0.2	David Arakelyan	Call and email follow up with client re: minimum demand, settlement offer, and counter
207762	Montoya v. East Bay Tire Co	4/1/24	0.1	David Arakelyan	Email counteroffer to OC
207762	Montoya v. East Bay Tire Co	4/2/24	0.2	David Arakelyan	Follow up with AAA re: invoice payment; email to case manager
207762	Montoya v. East Bay Tire Co	4/3/24	0.2	David Arakelyan	Follow up with DK re: offer history, AAA situation and client minimum demand
207762	Montoya v. East Bay Tire Co	4/3/24	0.1	David Arakelyan	Confirmed timely invoice payment for AAA; asked JF to add to file; updated notes
207762	Montoya v. East Bay Tire Co	4/3/24	0.2	David Arakelyan	Call and confirmatory email with client re: settlement
207762	Montoya v. East Bay Tire Co	4/3/24	0.1	David Arakelyan	Email OC accepting settlement offer
207762	Montoya v. East Bay Tire Co	4/8/24	0.7	David Arakelyan	Review and make changes to the Settlement Agreement
207762	Montoya v. East Bay Tire Co	4/8/24	0.1	David Arakelyan	Update and finalize Opp to MTC arb
207762	Montoya v. East Bay Tire Co	4/9/24	0.1	David Arakelyan	Follow up on strike list; create tasks; email to JF re: calendaring
207762	Montoya v. East Bay Tire Co	4/12/24	0.1	David Arakelyan	Discuss SA and carve out of Defendant East Bay from SA
207762	Montoya v. East Bay Tire Co	4/15/24	0.7	David Arakelyan	Review, take notes, and rank arbitrators; send list to DK and DY with comments
207762	Montoya v. East Bay Tire Co	4/19/24	0.1	David Arakelyan	Review status of settlement agreement and note to DK for follow up
207762	Montoya v. East Bay Tire Co	4/19/24	0.2	David Arakelyan	Follow up with DK and DY re: strike list
207762	Montoya v. East Bay Tire Co	4/19/24	0.1	David Arakelyan	Follow up on status of discovery; update notes
207762	Montoya v. East Bay Tire Co	4/19/24	0.2	David Arakelyan	Review settlement agreement issues with DK
207762	Montoya v. East Bay Tire Co	4/19/24	0.1	David Arakelyan	Discuss strike list with DK
207762	Montoya v. East Bay Tire Co	4/22/24	0.1	David Arakelyan	Discuss arbitrator list with DY
207762	Montoya v. East Bay Tire Co	4/22/24	0.2	David Arakelyan	Discuss CELA arbitrator feedback with Jean
207762	Montoya v. East Bay Tire Co	4/22/24	0.8	David Arakelyan	Rank, strike arbitrators; discuss with DK; submit on website
207762	Montoya v. East Bay Tire Co	4/23/24	0.1	David Arakelyan	Reminder to DK re: reviewing SA
207762	Montoya v. East Bay Tire Co	4/29/24	0.2	David Arakelyan	Review settlement agreement with DK and make final changes
207762	Montoya v. East Bay Tire Co	4/29/24	0.1	David Arakelyan	Email OC with copy of redlined settlement agreement
207762	Montoya v. East Bay Tire Co	5/2/24	0.2	David Arakelyan	Review AAA email re: arbitrator; draft note to DK re: deadlines and tasks
207762	Montoya v. East Bay Tire Co	5/3/24	0.1	David Arakelyan	Discuss arbitration and settlement-related issues with DK
207762	Montoya v. East Bay Tire Co	5/3/24	0.1	David Arakelyan	Email AAA re: extending deadline to respond to arbitrator selection
207762	Montoya v. East Bay Tire Co	5/3/24	0.1	David Arakelyan	Email East Bay OC re: discussing arbitrators
207762	Montoya v. East Bay Tire Co	5/6/24	0.1	David Arakelyan	Send Defendant invite for tomorrow's meet/confer call
207762	Montoya v. East Bay Tire Co	5/7/24	0.4	David Arakelyan	Call with OC re: arbitration and PAGA discovery
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Review both lists of arbitrators and rank based on past evaluations
207762	Montoya v. East Bay Tire Co	5/7/24	0.2	David Arakelyan	Review list of OC arbitrators; compare to ours;
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Confirm discovery extension via email
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Email OC re: arbitrators
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Discuss arbitrator issue with DK
207762	Montoya v. East Bay Tire Co	5/7/24	0.1	David Arakelyan	Email OC re: settlement agreement
207762	Montoya v. East Bay Tire Co	5/10/24	0.5	David Arakelyan	Review OC revisions to settlement agreement; send comments to DK and DY
207762	Montoya v. East Bay Tire Co	5/13/24	0.1	David Arakelyan	Email OC re: confirming arbitrator
207762	Montoya v. East Bay Tire Co	5/13/24	0.1	David Arakelyan	Follow up on outstanding case items: check docket, update case sheet, create tasks
207762	Montoya v. East Bay Tire Co	5/14/24	0.1	David Arakelyan	Email AAA confirming arbitrator selection
207762	Montoya v. East Bay Tire Co	5/15/24	0.1	David Arakelyan	Review email from the AAA re: declining to serve as arbitrator
207762	Montoya v. East Bay Tire Co	5/15/24	0.1	David Arakelyan	Email OC re: sending Rukin's name to AAA if no response by noon

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	5/15/24	0.1	David Arakelyan	Email AAA re: new arbitrator selection
207762	Montoya v. East Bay Tire Co	5/15/24	0.5	David Arakelyan	Review SA changes from OC with DK; draft additional changes
207762	Montoya v. East Bay Tire Co	5/21/24	0.1	David Arakelyan	Follow up with DK re: settlement with Express
207762	Montoya v. East Bay Tire Co	5/21/24	0.2	David Arakelyan	Review arbitrator appointment paperwork; forward to JF for adding to file
207762	Montoya v. East Bay Tire Co	5/21/24	0.1	David Arakelyan	Email AAA re: waiving disqualification period
207762	Montoya v. East Bay Tire Co	5/22/24	0.1	David Arakelyan	Respond to OC request for discovery extension; discuss with DK
207762	Montoya v. East Bay Tire Co	5/24/24	0.5	David Arakelyan	Draft CMS
207762	Montoya v. East Bay Tire Co	5/24/24	0.1	David Arakelyan	Email OC with draft cms
207762	Montoya v. East Bay Tire Co	5/28/24	0.3	David Arakelyan	Review and revise the settlement agreement with DK
207762	Montoya v. East Bay Tire Co	5/28/24	0.1	David Arakelyan	Email OC re: settlement agreement
207762	Montoya v. East Bay Tire Co	5/29/24	0.1	David Arakelyan	Finalize settlement agreement; convert to PDF; prepare for signing
207762	Montoya v. East Bay Tire Co	5/29/24	0.1	David Arakelyan	Send SA to OC
207762	Montoya v. East Bay Tire Co	5/30/24	0.2	David Arakelyan	Call with client re: settlement agreement and timeline for payment
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Email OC with signed settlement agreement and reminder re: payment date
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Create task/reminder re: payment deadline
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Forward AAA invoices to JF; follow up with JF re: calendaring; create task to follow up
207762	Montoya v. East Bay Tire Co	5/30/24	0.2	David Arakelyan	Review settlement agreement re: W-9 provisions
207762	Montoya v. East Bay Tire Co	5/30/24	0.2	David Arakelyan	Call with client re: W-9 info; answer questions re: settlement
207762	Montoya v. East Bay Tire Co	5/30/24	0.1	David Arakelyan	Draft W-9
207762	Montoya v. East Bay Tire Co	5/31/24	0.1	David Arakelyan	Call/text client re: signing W-9
207762	Montoya v. East Bay Tire Co	6/5/24	0.1	David Arakelyan	Review dismissal-related issues; update tasks re: post-settlement dismissal
207762	Montoya v. East Bay Tire Co	6/5/24	0.1	David Arakelyan	Check status of CMC (on calendar)
207762	Montoya v. East Bay Tire Co	6/6/24	0.1	David Arakelyan	Reply to OC re: call
207762	Montoya v. East Bay Tire Co	6/6/24	0.2	David Arakelyan	Review discovery responses and MTC deadlines; follow up with JF re: calendaring
207762	Montoya v. East Bay Tire Co	6/7/24	0.1	David Arakelyan	Look up mediator Darren Cohen
207762	Montoya v. East Bay Tire Co	6/7/24	0.2	David Arakelyan	Follow up on CMC: retrieve tentative; create tasks; update CMC sheet and case sheet
207762	Montoya v. East Bay Tire Co	6/7/24	0.1	David Arakelyan	Email OC in Express re: CMC and dismissals
207762	Montoya v. East Bay Tire Co	6/7/24	0.1	David Arakelyan	Email AAA re: settling claims against Express
207762	Montoya v. East Bay Tire Co	6/7/24	0.6	David Arakelyan	Call with OC re: PAGA case, mediation, client's claims, review wage statements, etc.
207762	Montoya v. East Bay Tire Co	6/11/24	0.2	David Arakelyan	Email DK and DY with updates re: call with OC
207762	Montoya v. East Bay Tire Co	6/12/24	0.2	David Arakelyan	Discuss PAGA dismissal and convo with OC with DK
207762	Montoya v. East Bay Tire Co	6/13/24	0.2	David Arakelyan	Review summary and create task for DY re: claims and IND settlement
207762	Montoya v. East Bay Tire Co	6/13/24	0.1	David Arakelyan	Email OC re: tomorrow's call
207762	Montoya v. East Bay Tire Co	6/17/24	0.2	David Arakelyan	Follow up on AAA Mgmt Conference: retrieve files, calendar events and deadlines; send to JF for filing;
207762	Montoya v. East Bay Tire Co	6/20/24	0.8	David Arakelyan	Draft arbitration pre-hearing report
207762	Montoya v. East Bay Tire Co	6/20/24	0.4	David Arakelyan	Meet and confer call with OC re: arbitration and PAGA settlement
207762	Montoya v. East Bay Tire Co	6/20/24	0.1	David Arakelyan	Follow up with Natalia re: settlement checks
207762	Montoya v. East Bay Tire Co	6/20/24	0.1	David Arakelyan	Email OC re: settlement check
207762	Montoya v. East Bay Tire Co	6/20/24	0.2	David Arakelyan	Discuss case with DY re: violations, mediation, etc.
207762	Montoya v. East Bay Tire Co	6/21/24	0.2	David Arakelyan	Revise and finalize joint report to AAA
207762	Montoya v. East Bay Tire Co	6/21/24	0.1	David Arakelyan	Email OC re: joint report
207762	Montoya v. East Bay Tire Co	6/21/24	0.2	David Arakelyan	Upload joint report to AAA
207762	Montoya v. East Bay Tire Co	6/22/24	0.2	David Arakelyan	Research dismissal procedure re: AAA
207762	Montoya v. East Bay Tire Co	6/22/24	0.2	David Arakelyan	Email AAA/Denise Crow re: dismissal of claims against Express
207762	Montoya v. East Bay Tire Co	6/22/24	0.1	David Arakelyan	Retrieve and review order dismissing Express from Superior Court lawsuit
207762	Montoya v. East Bay Tire Co	6/22/24	0.1	David Arakelyan	Email OC re: dismissals
207762	Montoya v. East Bay Tire Co	6/24/24	0.1	David Arakelyan	Conversation with JF re: checks
207762	Montoya v. East Bay Tire Co	6/26/24	0.2	David Arakelyan	Prepare for Arb CMC
207762	Montoya v. East Bay Tire Co	6/26/24	0.6	David Arakelyan	AAA CMC appearance
207762	Montoya v. East Bay Tire Co	6/26/24	0.2	David Arakelyan	Update case list and CMC sheet with dates and deadlines
207762	Montoya v. East Bay Tire Co	6/28/24	0.6	David Arakelyan	Review and analyze paystubs for regular rate issues and violations per convo with OC
207762	Montoya v. East Bay Tire Co	6/28/24	0.3	David Arakelyan	Review scheduling order and invoice; update case sheet and follow up with JF re: dates and deadlines
207762	Montoya v. East Bay Tire Co	7/2/24	0.2	David Arakelyan	Draft/send email to AAA re: invoice status
207762	Montoya v. East Bay Tire Co	7/2/24	0.1	David Arakelyan	Retrieve invoice payment confirmation; follow up with JF re: filing
207762	Montoya v. East Bay Tire Co	7/9/24	0.2	David Arakelyan	Report to DY re: case violations and potential mediation
207762	Montoya v. East Bay Tire Co	7/15/24	0.2	David Arakelyan	Draft/send email to OC re: not dismissing claims and potential mediation
207762	Montoya v. East Bay Tire Co	7/16/24	0.1	David Arakelyan	Review OC email response
207762	Montoya v. East Bay Tire Co	7/30/24	0.2	David Arakelyan	Email AAA re: arbitration invoice; request for payment
207762	Montoya v. East Bay Tire Co	8/5/24	0.2	David Arakelyan	Review case status and add notes re: follow up; create tasks; update case notes
207762	Montoya v. East Bay Tire Co	8/14/24	0.1	David Arakelyan	Email OC re: MTC extension
207762	Montoya v. East Bay Tire Co	9/3/24	0.1	David Arakelyan	Retrieve call info re: CMC; send to JF and Rose for calendaring; email AAA to remove me from service list
	Total Time		37.9		

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	10/31/23	1.5	Kevin Burns	Drafted discovery requests
207762	Montoya v. East Bay Tire Co	11/15/23	0.2	Kevin Burns	Drafted FAC adding PAGA
207762	Montoya v. East Bay Tire Co	12/22/23	0.9	Kevin Burns	Drafted dismissal of class claims; kept PAGA claims separate from dismissal
207762	Montoya v. East Bay Tire Co	1/8/24	0.2	Kevin Burns	Spoke with client on phone about declining wrongful termination claims
207762	Montoya v. East Bay Tire Co	9/26/24	0.1	Kevin Burns	Checked case status for JF.
207762	Montoya v. East Bay Tire Co	10/4/24	0.1	Kevin Burns	Emailled OC introducing myself as new associate, continuing mediation planning, asking for extension to MtC.
207762	Montoya v. East Bay Tire Co	10/28/24	0.4	Kevin Burns	Prep for call with OC, call with OC to discuss mediation, arbitration, individual settlement and next steps.
207762	Montoya v. East Bay Tire Co	12/6/24	0.4	Kevin Burns	Emailled potential mediator and OC about scheduling mediation and mediation data request.
207762	Montoya v. East Bay Tire Co	1/17/25	0.4	Kevin Burns	Email correspondence with OC about scheduling mediation.
207762	Montoya v. East Bay Tire Co	1/23/25	0.3	Kevin Burns	Emailled mediator confirmation of date and request for scheduling, included OC in email.
207762	Montoya v. East Bay Tire Co	2/6/25	0.4	Kevin Burns	Sent mediator operative complaint and OC mediation data request.
207762	Montoya v. East Bay Tire Co	3/25/25	0.3	Kevin Burns	Reviewed email from OC and arbitrator, sent email response.
207762	Montoya v. East Bay Tire Co	4/4/25	0.2	Kevin Burns	Sent email follow-up to OC for mediation production.
207762	Montoya v. East Bay Tire Co	4/30/25	1.9	Kevin Burns	Reviewed materials for mediation, reviewed data analysis for mediation, emailed OC about missing documents.
207762	Montoya v. East Bay Tire Co	5/1/25	3.1	Kevin Burns	Reviewed handbook for mediation brief prep.
207762	Montoya v. East Bay Tire Co	5/6/25	6.8	Kevin Burns	Work on mediation brief, reviewed handbooks/policies produced by Defendant, reviewed data and data analysis.
207762	Montoya v. East Bay Tire Co	5/7/25	1.6	Kevin Burns	Finished drafting mediation brief, prepared for mediation.
207762	Montoya v. East Bay Tire Co	5/9/25	1.2	Kevin Burns	Talked to client ahead of mediation, gathered facts and info.
207762	Montoya v. East Bay Tire Co	5/9/25	6.6	Kevin Burns	Appearance at mediation.
207762	Montoya v. East Bay Tire Co	5/23/25	0.4	Kevin Burns	Case check-in post mediation, and email to arbitration case manager requesting documents for payments pursuant to invoices.
207762	Montoya v. East Bay Tire Co	6/5/25	1.6	Kevin Burns	Communications internally and with OC about settlement agreement, confirmed with client about settlement offer, reviewed and communicated to accept enhancement.
207762	Montoya v. East Bay Tire Co	6/25/25	0.4	Kevin Burns	Reviewed edits to settlement agreement, made change and sent to OC for review.
207762	Montoya v. East Bay Tire Co	6/30/25	0.2	Kevin Burns	Reviewed case status and next hearing date, added to calendar.
207762	Montoya v. East Bay Tire Co	7/1/25	0.7	Kevin Burns	Reviewed accepted and rejected redlines OC sent back, set up call to go over remaining issues in settlement agreement.
207762	Montoya v. East Bay Tire Co	7/7/25	0.3	Kevin Burns	Reviewed emails from OC and arbitrator, sent responses.
207762	Montoya v. East Bay Tire Co	7/8/25	0.3	Kevin Burns	Correspondence with OC about handing case off to settlement team.
207762	Montoya v. East Bay Tire Co	7/10/25	0.1	Kevin Burns	Viewed text from client, responded.
	Total Time		30.6		

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	7/15/25	0.9	Norayr Zakaryan	conferred with OC, scheduled a conference call, reviewing the procedural history of the case. Conferring with litigation team
207762	Montoya v. East Bay Tire Co	7/16/25	0.5	Norayr Zakaryan	reviewing the settlement agreement draft
207762	Montoya v. East Bay Tire Co	7/16/25	0.5	Norayr Zakaryan	call with opposing counsel, went over the long form - conferred with senior counsel
207762	Montoya v. East Bay Tire Co	7/29/25	0.4	Norayr Zakaryan	finalizing our redlines on the LFA to be shared with OC. Shared the LFA draft with OC
207762	Montoya v. East Bay Tire Co	7/31/25	0.3	Norayr Zakaryan	conference call with OC regarding the long form
207762	Montoya v. East Bay Tire Co	7/31/25	0.3	Norayr Zakaryan	checking records, conferred with senior counsel and OC regarding total number of aggrieved employees
207762	Montoya v. East Bay Tire Co	8/6/25	0.7	Norayr Zakaryan	conferring with OC, and requesting quotes from administrators
207762	Montoya v. East Bay Tire Co	8/6/25	0.2	Norayr Zakaryan	conferring with senior counsel regarding LFA
207762	Montoya v. East Bay Tire Co	8/7/25	1.7	Norayr Zakaryan	drafting individual settlement agreement
207762	Montoya v. East Bay Tire Co	8/7/25	0.6	Norayr Zakaryan	conferring with senior counsel, called the client, sent a follow up email
207762	Montoya v. East Bay Tire Co	8/7/25	0.9	Norayr Zakaryan	conferring with senior counsel, revising agreement drafts
207762	Montoya v. East Bay Tire Co	8/12/25	0.5	Norayr Zakaryan	reviewing settlement drafts for accuracy prior to sending for client's signature
207762	Montoya v. East Bay Tire Co	8/14/25	0.9	Norayr Zakaryan	reviewing the settlement agreement drafts for accuracy prior to sending to client for their signature, preparing for client call, left a voicemail to client to call back
207762	Montoya v. East Bay Tire Co	8/14/25	1.0	Norayr Zakaryan	talked with client and went over the terms of the settlement agreement, prepared a follow up email
207762	Montoya v. East Bay Tire Co	9/29/25	0.2	Norayr Zakaryan	drafting PAGA Approval motion docs
207762	Montoya v. East Bay Tire Co	9/29/25	2.0	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/29/25	0.1	Norayr Zakaryan	conferred with opposing counsel regarding the approval motion status
207762	Montoya v. East Bay Tire Co	9/30/25	1.6	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/30/25	1.4	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/30/25	1.7	Norayr Zakaryan	drafting approval motion docs
207762	Montoya v. East Bay Tire Co	9/30/25	1.3	Norayr Zakaryan	drafted approval motion docs
207762	Montoya v. East Bay Tire Co	10/3/25	0.3	Norayr Zakaryan	researched local rule and revised approval motion docs
207762	Montoya v. East Bay Tire Co	10/10/25	0.6	Norayr Zakaryan	revising approval motion docs
	Total Time		18.6		

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	7/25/25	0.8	Enoch Kim	Review and revise settlement agreement; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	7/28/25	2.9	Enoch Kim	Review and revise PAGA settlement agreement; confer with team re same.
207762	Montoya v. East Bay Tire Co	7/30/25	0.8	Enoch Kim	Exchange emails with defense counsel re settlement agreement; review revisions to settlement agreement and consider next steps.
207762	Montoya v. East Bay Tire Co	7/31/25	0.5	Enoch Kim	Call with defense counsel re settlement agreement; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	7/31/25	1.0	Enoch Kim	Review and revise PAGA settlement agreement.
207762	Montoya v. East Bay Tire Co	8/6/25	0.6	Enoch Kim	Review and revise settlement agreement; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	8/7/25	1.2	Enoch Kim	Review and revise PAGA and individual settlement agreements; confer with NZ re same.
207762	Montoya v. East Bay Tire Co	8/14/25	0.2	Enoch Kim	Confer with NZ re settlement payment to client; review email to client re settlement.
207762	Montoya v. East Bay Tire Co	10/10/25	3.8	Enoch Kim	Review and revise PAGA approval motion documents.
207762	Montoya v. East Bay Tire Co	10/10/25	0.2	Enoch Kim	Exchange email correspondence with defense counsel re PAGA approval motion.
	Total Time		12.0		

Case Number	Case Title	Entry Date	Billable Time	Attorney	Note
207762	Montoya v. East Bay Tire Co	6/23/25	2.6	David Keledjian	Review and Revise Long Form PAGA Settlement.
	Total Time		2.6		

EXHIBIT 5

**THIS SETTLEMENT DOES NOT RELEASE ANY INDIVIDUAL CLAIMS THAT YOU
MIGHT HAVE AGAINST THE COMPANY OUTSIDE OF PAGA**

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Montoya v. East Bay Tire Co., et al.

Superior Court of the State of California for the County of Sacramento

Case No. 23CV008841

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Montoya v. East Bay Tire Co., et al.*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit (“Settlement”) *Montoya v. East Bay Tire Co., et al.*, Sacramento County Superior Court (“Court”), Case No. 23CV008841. The Court has approved the Settlement and this payment to you.

WHAT IS THE CASE ABOUT?

This case was filed by Plaintiff Humberto Montoya (“Plaintiff”) against East Bay Tire Co. (“Defendant”), and Express Services Inc. (“Express Services”) (Plaintiff and Defendant collectively referred to as the “Parties”), pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (“PAGA”), which permits aggrieved employees to sue their employers for Labor Code violations and seek civil penalties on behalf of the state. Plaintiff filed the lawsuit on behalf of himself, the State of California, and all current and former non-exempt employees who worked for East Bay Tire in California during the PAGA Period, which is the period from September 21, 2022, through July 1, 2025 (“PAGA Period”). The group of employees referenced above is called the “Aggrieved Employees” or “PAGA Members” and you have been identified as an Aggrieved Employee.

In this case, Plaintiff alleged that Defendant owed civil penalties under PAGA for certain California Labor Code (the “Labor Code”) violations, including failure to pay minimum wages and overtime; failure to provide compliant meal breaks and rest breaks; failure to provide proper sick pay; failure to provide accurate wage statements; failure to timely pay all final wage. Defendant denies the allegations in the lawsuit, any failure to comply with the laws identified in the lawsuit, and any and all liability for the causes of action alleged.

WHAT ARE THE IMPORTANT TERMS OF THE SETTLEMENT?

The Parties agreed to resolve the case, and as part of the Settlement, Defendant agreed to pay One Hundred Sixty-Five Thousand Dollars and Zero Cents (\$165,000.00), which is called the Total Settlement Amount. From the Total Settlement Amount, and as approved by the Court, Plaintiff's counsel ("PAGA Counsel") will receive a PAGA Counsel Fees Payment of \$57,750.00 for attorneys' fees and a PAGA Counsel Litigation Expenses Payment of \$16,016.73 for litigation costs incurred in prosecuting the lawsuit. In addition, and as approved by the Court, and the Settlement Administrator will receive an Settlement Administration Costs payment of \$3,950.00 for its services in administering the settlement. The balance of the monies, called the Net Settlement Amount, in the amount of \$87,283.27, represents the "PAGA Penalties."

Under PAGA, the law requires that PAGA Penalties get divided between the California Labor and Workforce Development Agency (the "LWDA") and the Aggrieved Employees, with 75% of the settlement going to the LWDA and 25% being divided amongst the Aggrieved Employees. As a result, and as approved by the Court, \$65,462.45 will be paid to the LWDA for its share of the PAGA Penalty payment, and \$21,820.82 will be paid to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA pay periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report all Individual PAGA Payments on IRS 1099 Forms.

The settlement of this action does not constitute an admission by Defendant of any of the matters alleged in the case or an admission of liability. Defendant denies violating any laws or failing to pay any wages. Defendant contends it complied with all applicable laws.

YOUR SETTLEMENT CHECK AND THE RELEASE OF CLAIMS

The enclosed check, in the amount of \$, represents your Individual Settlement Award payment, which is based on the number of pay periods you worked during the PAGA Period. As an Aggrieved Employee, you are legally barred from asserting any of the claims released under the Settlement. The release by Aggrieved Employees is as follows:

Released Parties and Release of PAGA Claims:

Upon the date Defendant fully funds the Total Settlement Amount, Plaintiff and PAGA Members fully release and discharge East Bay Tire and its agents, officers, employees, directors, owners, subsidiaries, DBA's, affiliates and parent companies, (the "Released Parties"), from any and all claims for civil penalties under the PAGA for any violations of the Labor Code or Wage Orders that were alleged by Plaintiff in the Operative Complaint, or that reasonably could have been alleged based on the facts asserted in the Operative Complaint or Plaintiff's notices to the LWDA, including claims for alleged violations of Industrial Welfare Commission Wage Order and California Labor Code sections 201, 202, 203, 204, 210, 223, 226, 226.7, 246, 510, 512, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1199, 2802, and the related IWC Wage Order No. 1-2001 (the "Released PAGA Claims"), during the PAGA Period.

“Operative Complaint” means: Plaintiff’s November 23, 2023, First Amended Complaint, Case No. 23CV008841, filed in the Superior Court of California County of Sacramento, alleging Civil Penalties under Labor Code § 2698, *et seq.*

“PAGA Notice” means Plaintiff’s PAGA Notice letter to Defendant and the LWDA submitted on September 20, 2023, (LWDA Case No. LWDA-CM-982671-23), and Plaintiff’s Amended PAGA Notice letter submitted on November 16, 2023, providing notice pursuant to Labor Code section 2699.3, subd. (a).

This release applies to you, regardless of whether you cash your check, and regardless of whether this letter can be delivered to you. Aggrieved Employees have no right to object to this settlement, and they cannot opt out of this settlement. You will be bound by this release whether you cash your check or not.

QUESTIONS?

If you have any questions, you can contact the Settlement Administrator (whose contact information is at the top of this letter).

Very Truly Yours,
Phoenix Class Action Administration Solutions
[INSERT CONTACT INFORMATION]

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE

EXHIBIT 6