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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

12 VICTOR J. LUNA, individually, and on behalf
13 of other aggrieved employees pursuant to the
14 California Private Attorneys General Act
("PAGA"),

15 Plaintiff,

16 vs.
17

18 NIELSEN CONSTRUCTION CALIFORNIA,
19 INC., a California corporation; NIELSEN
20 CONSTRUCTION COMPANY, LLC, a
California limited liability company; and DOES
1 through 10, inclusive,

21 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By J. Rael ,Deputy Clerk

Case No.: 26CU046885C

**PAGA REPRESENTATIVE ACTION
COMPLAINT**

1. Civil Penalties Under PAGA [Cal. Lab.
Code §§ 2699, et seq.].

DEMAND FOR JURY TRIAL

1 Plaintiff VICTOR J. LUNA (“Plaintiff”), individually, and on behalf of other aggrieved
2 employees pursuant to the California Private Attorney General Act (“PAGA”), based upon
3 facts that either have evidentiary support or are likely to have evidentiary support after a
4 reasonable opportunity for further investigation and discovery, alleges as follows:

5 **INTRODUCTION & PRELIMINARY STATEMENT**

6 1. Plaintiff brings this action against Defendants Nielsen Construction California,
7 Inc., Nielsen Construction Company, LLC, and Does 1 through 10 (collectively referred to as
8 “Defendants”) for civil penalties under the Private Attorneys General Act of 2004, California
9 Labor Code §§ 2698 et seq. stemming from Defendants’ failure to pay minimum wages, failure
10 to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest
11 periods, failure to maintain accurate records of hours worked and meal periods, failure to timely
12 pay all wages to terminated employees, failure to indemnify necessary business expenses, and
13 failure to furnish accurate wage statements.

14 2. All past and present non-exempt, hourly-paid employees of Defendants in
15 California during the applicable statute of limitations period who are or were harmed by
16 Defendants’ illegal practices are “Aggrieved Employees.”

17 3. Plaintiff brings this action against Defendants seeking to recover penalties for
18 himself, on behalf of all Aggrieved Employees that worked for Defendants, and on behalf of
19 the State of California. Plaintiff does not seek to recover anything other than penalties as
20 permitted by California Labor Code Section 2698 at this time. To the extent that statutory
21 violations are mentioned for wage violations, Plaintiff does not seek underlying general and/or
22 special damages for those violations, but simply penalties as permitted by California Labor
23 Code Section 2698, declaratory relief, and injunctive relief for himself and all aggrieved
24 employees as permitted by the PAGA.

25 4. Defendants own/owned and operate/operated an industry, business, and
26 establishment within the State of California, including San Diego County. As such, and based
27 upon all the facts and circumstances incident to Defendants’ business in California,
28

1 Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial
2 Welfare Commission (“IWC”), and the California Business & Professions Code.

3 5. Despite these requirements, throughout the statutory period Defendants
4 maintained a systematic, company-wide policy and practice of:

- 5 (a) Failing to pay employees for all hours worked, including all minimum
6 wages, and overtime wages in compliance with the California Labor
7 Code and IWC Wage Orders;
- 8 (b) Failing to provide employees with timely and duty-free meal periods in
9 compliance with the California Labor Code and IWC Wage Orders,
10 failing to maintain accurate records of all meal periods taken or missed,
11 and failing to pay an additional hour’s pay at the regular rate of pay for
12 each workday a meal period violation occurred;
- 13 (c) Failing to authorize and permit employees to take timely and duty-free
14 rest periods in compliance with the California Labor Code and IWC
15 Wage Orders, and failing to pay an additional hour’s pay at the
16 employee’s regular rate of pay for each workday a rest period violation
17 occurred;
- 18 (d) Failing to indemnify employees for necessary business expenses
19 incurred;
- 20 (e) Willfully failing to pay employees all minimum wages, overtime wages,
21 meal period premium wages, and rest period premium wages due within
22 the time period specified by California law when employment
23 terminates;
- 24 (f) Failing to maintain accurate records of the hours that employees worked;
25 and
- 26 (g) Failing to provide employees with accurate, itemized wage statements
27 containing all the information required by the California Labor Code and
28 IWC Wage Orders.



6. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

7. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiff and the Aggrieved Employees. Further, Defendant are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of “respondeat superior”.

THE PARTIES

A. Plaintiff

8. Plaintiff is a California resident that works for Defendants in the State of California, as an hourly, non-exempt Carpenter since approximately August 2025.

B. Defendants

9. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Nielsen Construction California, Inc. is:

- (a) A California corporation with its principal place of business in San Diego, California;
- (b) A business entity conducting business in numerous counties throughout the State of California, including in San Diego; and
- (c) The employer of Plaintiff, and the current and/or former employer of the Aggrieved Employees. Defendant Nielsen Construction California, Inc. suffered and permitted Plaintiff and the Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions.

10. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Nielsen Construction Company, LLC is:

- (a) A California corporation with its principal place of business in San Diego, California;

(b) A business entity conducting business in numerous counties throughout the State of California, including in San Diego; and

(c) The employer of Plaintiff, and the current and/or former employer of the Aggrieved Employees. Defendant Nielsen Construction Company, LLC suffered and permitted Plaintiff and the Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions.

11. Plaintiff does not currently know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of California.

13. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the Aggrieved Employees definitions below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above,

1 that each Defendant knew or should have known about, and authorized, ratified, adopted,
2 approved, controlled, aided and abetted the conduct of all other Defendants.

3 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

4 14. Plaintiff is a California resident who worked for Defendants in the State of
5 California, as a Carpenter during the statutory period. Plaintiff is typically scheduled to work 5
6 days in a workweek, and typically in excess of 8 hours in a single workday.

7 15. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
8 worked (including minimum wages and overtime wages), failed to provide Plaintiff with
9 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest
10 periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all
11 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
12 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
13 Defendants was typical and illustrative.

14 16. Throughout the statutory period, Defendants maintained a policy and practice of
15 not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime
16 wages. In those instances where Plaintiff and the Aggrieved Employees earned non-discretionary
17 bonuses and other remuneration, Defendants failed to incorporate all remuneration when
18 calculating the correct overtime rate of pay, meal break premium rate of pay, rest break premium
19 rate of pay, and sick day rate of pay. Defendants also regularly used a system of time rounding in
20 a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved
21 Employees properly for all the time they have actually worked, even though the realities of
22 Defendants' operations are such that it is possible, practical, and feasible to count and pay for
23 work time to the minute. Also throughout the statutory period, Plaintiff and the Aggrieved
24 Employees were required to work "off-the-clock" and uncompensated. For example, Defendants
25 only recorded Plaintiff and Aggrieved Employees' scheduled hours rather than actual time
26 worked, despite Plaintiff and the Aggrieved Employees working before and after scheduled hours
27 and during meal periods. Plaintiff and the Aggrieved Employees were required to undergo
28 security checkpoints after clocking out for their shifts. For example, Plaintiff and the Aggrieved



1 Employees were required to change into their safety gear before clocking in for their shifts and
2 were not compensated for this time worked. Additionally, Plaintiff and the Aggrieved Employees
3 were required to keep their personal cell phones on at all times, including during meal periods,
4 and were required to respond to work requests from supervisors while clocked out during
5 purported meal periods. Despite being required to perform these work tasks, Plaintiff and the
6 Aggrieved Employees were not compensated for this time worked. In maintaining a practice of
7 not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff
8 and the Aggrieved Employees worked.

9 17. Throughout the statutory period, Defendants have wrongfully failed to provide
10 Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants
11 regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive
12 hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period
13 for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for
14 meal periods that were not provided by the end of the fifth hour of work or tenth hour of work.
15 Defendants did not adequately inform Plaintiff and the Aggrieved Employees of their right to
16 take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the
17 end of the tenth hour of work. Plaintiff and the Aggrieved Employees were often required to
18 work during their meal periods, leading to the failure to provide uninterrupted meal periods. As
19 a result, Plaintiff and the Aggrieved Employees were not provided with uninterrupted and
20 complete meal periods. For example, Plaintiff and the Aggrieved Employees were required to
21 prioritize urgent work tasks before starting their meal periods or during their meal periods,
22 resulting in late, shortened, or interrupted meal periods. These requirements also meant Plaintiff
23 and the Aggrieved Employees were not relieved of all duty during their meal periods. For
24 example, Plaintiff and the Aggrieved Employees were required to keep their personal cell phones
25 on at all times, including during meal periods, and were required to respond to work requests
26 from supervisors while clocked out during purported meal periods. For example, during
27 purported meal periods, Plaintiff and the Aggrieved Employees were required to quickly eat
28 lunch while continuing to perform work duties, resulting in missed/on-duty meal periods. When



1 Plaintiff and the Aggrieved Employees worked shifts that were over 10 hours in length,
2 Defendants failed to provide a second meal period altogether. As a result, Plaintiff and the
3 Aggrieved Employees were not provided with uninterrupted and complete meal periods.
4 Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff and the
5 Aggrieved Employees in compliance with California law.

6 18. Throughout the statutory period, Defendants have wrongfully failed to authorize
7 and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
8 Defendants often required Plaintiff and the Aggrieved Employees to work in excess of four
9 consecutive hours a day without Defendants authorizing and permitting them to take a net 10-
10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction
11 of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods
12 that were not authorized or permitted. Defendants also did not adequately inform Plaintiff and
13 the Aggrieved Employees of their right to take a rest period. Moreover, Defendants did not have
14 adequate policies or practices permitting or authorizing rest periods for Plaintiff and the
15 Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the
16 timing of rest periods. Defendants also did not have adequate policies or practices to verify
17 whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further,
18 Defendants did not maintain accurate records of employee work periods, and therefore
19 Defendants cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods
20 during the middle of each work period. For example, Plaintiff and the Aggrieved Employees
21 were required to keep their personal cell phones on at all times, including during rest periods, and
22 were required to respond to work requests from supervisors while on their purported rest periods.
23 Plaintiff and the Aggrieved Employees were not allowed to leave the work premises during
24 purported rest periods. As a result, Plaintiff and the Aggrieved Employees were rarely provided
25 with compliant rest periods and were regularly required to work through their rest periods.
26 Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiff and the
27 Aggrieved Employees to take rest periods in compliance with California law.
28

1 19. Throughout the statutory period, Defendants wrongfully required Plaintiff and the
2 Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for
3 Defendant without reimbursement. For example, Plaintiff and the Aggrieved Employees were
4 required to use their personal cell phones for work purposes such as communicating with co-
5 workers and supervisors regarding work-related issues. Plaintiff and the Aggrieved Employees
6 were also required to purchase tools such as cooling rags, visors, safety glasses, steel toe boots,
7 reflector vests, and gloves, but were not reimbursed for these expenses. Plaintiff and the
8 Aggrieved Employees were not adequately compensated for these work-related expenses.

9 20. Throughout the statutory period, Defendants willfully failed and refused to timely
10 pay Aggrieved Employees at the conclusion of their employment all wages for all minimum
11 wages, overtime wages, meal period premium wages, and rest period premium wages. Further,
12 Defendants did not pay Plaintiff and the Aggrieved Employees their final paychecks immediately
13 upon termination.

14 21. Throughout the statutory period, Defendants failed to furnish Plaintiff and the
15 Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly
16 rates, and all gross and net wages earned (including correct hours worked, correct wages
17 earned for hours worked, correct overtime hours worked, correct wages for meal periods that
18 were not provided in accordance with California law, correct wages for rest periods that were
19 not authorized and permitted to take in accordance with California law, and Defendant's
20 address). As a result of these violations of California Labor Code § 226(a), the Plaintiff and
21 the Aggrieved Employees suffered injury because, among other things:

- 22 (a) the violations led them to believe that they were not entitled to be paid
23 minimum wages, overtime wages, meal period premium wages, and rest
24 period premium wages to which they were entitled, even though they
25 were entitled;
- 26 (b) the violations led them to believe that they had been paid the minimum,
27 overtime, meal period premium, and rest period premium wages, even
28 though they had not been;

- 1 (c) the violations led them to believe they were not entitled to be paid
2 minimum, overtime, meal period premium, and rest period premium
3 wages at the correct California rate even though they were;
- 4 (d) the violations led them to believe they had been paid minimum,
5 overtime, meal period premium, and rest period premium wages at the
6 correct California rate even though they had not been;
- 7 (e) the violations hindered them from determining the amounts of minimum,
8 overtime, meal period premium, and rest period premium owed to them;
- 9 (f) in connection with their employment before and during this action, and
10 in connection with prosecuting this action, the violations caused them to
11 have to perform mathematical computations to determine the amounts of
12 wages owed to them, computations they would not have to make if the
13 wage statements contained the required accurate information;
- 14 (g) by understating the wages truly due them, the violations caused them to
15 lose entitlement and/or accrual of the full amount of Social Security,
16 disability, unemployment, and other governmental benefits;
- 17 (h) the wage statements inaccurately understated the wages, hours, and
18 wages rates to which Plaintiff and the Aggrieved Employees were
19 entitled, and Plaintiff and the Aggrieved Employees were paid less than
20 the wages and wage rates to which they were entitled.

21 Thus, Plaintiff and the Aggrieved Employees are owed the amounts provided for in California
22 Labor Code § 226(e), including actual damages.

23 **FIRST CAUSE OF ACTION**

24 **(Against all Defendants for Civil Penalties Under the Private Attorneys General**
25 **Act of 2004, Cal. Lab. Code § 2698 et seq.)**

26 22. Plaintiff incorporates by reference and re-alleges all preceding paragraphs as
27 though fully set forth herein.
28

1 23. At all times herein mentioned, Defendants were subject to the Labor Code of the
2 State of California and the applicable Industrial Welfare Commission Orders.

3 24. California Labor Code § 2699(a) specifically provides for a private right of action
4 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
5 law, any provision of this code that provides for a civil penalty to be assessed and collected by
6 the Labor and Workforce Development Agency or any of its departments, divisions,
7 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
8 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
9 herself and other current or former employees pursuant to the procedures specified in Section
10 2699.3.”

11 25. Plaintiff has exhausted his administrative remedies pursuant to California Labor
12 Code § 2699.3. On April 30, 2026, Plaintiff gave written notice by online filing to the Labor and
13 Workforce Development Agency and by certified mail to Defendants of the specific provisions
14 of the Labor Code that Defendants have violated against Plaintiff and current and former
15 aggrieved employees, including the facts and theories to support the violations. Plaintiff also paid
16 the filing fee. Plaintiff’s PAGA case number is LWDA-CM-1174540-26.

17 26. The statute of limitations is tolled while a plaintiff exhausts his/her administrative
18 remedies with California’s Labor and Workforce Development Agency (LWDA) prior to suit,
19 which is required by the statute. (*See* Cal. Lab. Code § 2699.3(d).)

20 27. More than 65 days has elapsed since Plaintiff provided notice, but the Labor and
21 Workforce Development Agency has not indicated that it intends to investigate Defendants’
22 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil
23 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
24 the Labor Code described in this Complaint. These penalties include, but are not limited to,
25 penalties under California Labor Code §§ 210, 226.3, 1197.1, and 2699(f)(2).

26 28. In addition, Plaintiff seeks penalties for Defendants’ violation of California
27 Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including
28 any entity, employing labor who willfully fails to maintain accurate and complete records

1 required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to
2 the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when
3 the employee begins and ends each work period. Meal periods, and total hours worked daily
4 shall also be recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every
5 employer shall keep total hours worked in the payroll period and applicable rates of pay.

6 29. During the time period of employment for Plaintiff and the Aggrieved
7 Employees, Defendants failed to maintain records pursuant to the Labor Code and IWC
8 Orders by failing to maintain accurate records showing meal periods, and accurate records
9 showing when employees begin and end each work period. Defendants' failure to provide and
10 maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the
11 Aggrieved Employees the ability to know, understand and question the accuracy and
12 frequency of meal periods, and the accuracy of their hours worked stated in Defendants'
13 records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the
14 resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to
15 Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and
16 continue to suffer, substantial losses related to the use and enjoyment of such wages, lost
17 interest on such wages and expenses and attorney's fees in seeking to compel Defendants to
18 fully perform their obligation under state law, all to their respective damage in amounts
19 according to proof at trial. Because of Defendants' knowing failure to comply with the Labor
20 Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also
21 suffered an injury in that they were prevented from knowing, understanding, and disputing the
22 wage payments paid to them.

23 30. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
24 of civil penalties on behalf of himself, the State of California, and similarly Aggrieved
25 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount
26 to be shown according to proof at trial. These penalties are in addition to all other remedies
27 permitted by law.
28

31. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

PRAYER FOR RELIEF

Plaintiff, on behalf of all similarly Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. That the Court declare, adjudge and decree that Defendants violated the California Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, failure to indemnify necessary business expenses, failing to furnish accurate wage statements, and failing to maintain accurate records of all hours worked and meal periods;
2. An award of civil penalties on behalf of all similarly aggrieved employees pursuant to PAGA;
3. Pre-judgment and post-judgment interest at the maximum rate allowed;
4. Attorneys' fees and costs reasonably incurred;
5. Injunctive and declaratory relief to the extent allowed by PAGA; and
6. Such other and further relief that the Court deems proper.

Dated: September 2, 2026

Respectfully submitted,

THE SENTINEL FIRM, APC

By:


Seung L. Yang
Tiffany Hyun
Attorneys for Plaintiff

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3 **DEMAND FOR JURY TRIAL**

4 Plaintiff demands a trial by jury as to all causes of action triable by jury.

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6 Dated: September 2, 2026

THE SENTINEL FIRM, APC

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8 By:

9 Seung L. Yang
10 Tiffany Hyun
11 Attorneys for Plaintiff
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