

Filed
Superior Court of California,
Sacramento
11/01/2023
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By _____, Deputy
23CV010964

1 Elliot J. Siegel (Bar No. 286798)
Elliot@KingSiegel.com
2 Julian Burns King (Bar No. 298617)
Julian@KingSiegel.com
3 **KING & SIEGEL LLP**
4 724 South Spring Street, Suite 201
Los Angeles, California 90014
5 tel: (213) 465-4802
6 fax: (213) 465-4803

7 Xavier Villegas (Bar No. 293232)
xavier@xaviervillegaslaw.com
8 **LAW OFFICE OF XAVIER VILLEGAS, APC**
9 2390 Las Posas Road, C168
Camarillo, CA 93010
10 tel: (805) 250-7488
11 fax: (805) 250-7499

12 Attorneys for Plaintiff and the Putative Class

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SACRAMENTO**

15 **Ana Molina**, individually and on behalf of all
16 similarly situated individuals,

17 Plaintiff,

18 vs.

19 **Lattco Services Inc.**, a California corporation;
20 **Valerie Latta**, an individual; and **Does 1-100**;

21 Defendants.
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CASE NO.

CLASS ACTION COMPLAINT FOR:

- 1) Failure to Pay Minimum Wages;
- 2) Failure to Pay Overtime Wages;
- 3) Failure to Provide Meal Periods or Premium Pay in Lieu Thereof;
- 4) Failure to Provide Rest Periods or Premium Pay in Lieu Thereof;
- 5) Failure to Reimburse Necessary Business Expenses;
- 6) Violation of Sick Leave Laws;
- 7) Failure to Provide and Maintain Accurate Records;
- 8) Failure to Pay Wages When Due During Employment and at Separation;
- 9) PAGA Penalties; and
- 10) Violation of California's Unfair Competition Law

Jury Trial Requested

1 Plaintiff Ana Molina, on behalf of herself and all other similarly situated current and former
2 employees ("Class Members"), by and through her counsel of record, alleges as follows against Lattco
3 Services Inc. ("Lattco" or Defendants):

4 **PARTIES**

5 1. Plaintiff Ana Molina ("Plaintiff") is a resident of West Sacramento, Sacramento County,
6 California. Plaintiff was as an hourly, non-exempt employee of Lattco Services Inc. working as a
7 Warehouse Attendant from approximately April 19, 2022 to August 25, 2023. Plaintiff was subject to the
8 policies and practices described in this Complaint at all times during her employment at Lattco.

9 2. Defendant Lattco Services Inc. ("Lattco") is a California corporation and food distributor
10 with multiple warehouse locations in California. On information and belief, Lattco has employed at least 50
11 hourly, non-exempt employees in a variety of capacities through the four years leading to this Complaint in
12 its Elk Grove, California location. Lattco is a general stock corporation registered and organized under the
13 laws of California. Lattco's principal place of business is 9630 Bruceville Road, Suite 106-335, Elk Grove,
14 CA 95757.

15 3. Defendant Valerie Latta ("Latta") is an individual, she is the Chief Executive Officer of
16 Lattco, and on information and belief is a resident of the County of Sacramento. Since Latta is a managing
17 agent, director, and/or officer of Lattco and because she violated or caused to be violated the regulations
18 and statutes described in greater detail below, she is personally liable for the Labor Code violations and
19 PAGA penalties complained of herein per Labor Code section 558.1.

20 4. Plaintiff is not currently aware of the names and true identities of defendants Does 1-100.
21 Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this
22 information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the
23 causes of action asserted, either through its own conduct, or vicariously through the conduct of others.
24 Further references in this complaint to any named Defendants includes the fictitiously named defendants.

25 5. At all times alleged herein, each Defendant was an agent, servant, joint employer,
26 employee, partner, and/or joint venture of every other Defendant and was acting within the scope of the
27 Defendants' relationship. Moreover, the conduct of every Defendant was ratified by each other
28 Defendant.

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§ 226.7 based on, at least, the following uniform policies and practices.

11. *First*, Defendants implemented a policy that expressly denied employees lawful rest periods by requiring employees to remain on premises during their rest periods: “*Se espera que los empleados permanezcan en el trabajo durante todo el horario de trabajo.*”¹ This policy was enforced and reiterated by supervisors, who instructed Class Members that they could not leave the premises during rest periods since they were being paid for that time.

12. *Third*, Defendants interrupted Plaintiff and Class Members during their meal and rest periods to discuss work-related matters and/or instruct them on pending tasks.

13. *Fourth*, in information and belief, Lattco’s rounding policy resulted in short or truncated meal periods being considered a full 30-minute meal period for payroll and premium pay purposes.

14. In failing to authorize and/or permit timely and/or uninterrupted meal and rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-exempt employees. Defendants denied compensation in lieu of meal and rest periods, including premium wages owed, notwithstanding their actual knowledge that such employees were uniformly denied compliant meal and rest periods.

15. Finally, Plaintiff and Class Members were denied sick leave rights and not reimbursed for necessary business expenditures, such as using their cellular phones to discharge their duties.

16. Accordingly, Plaintiff brings this action on behalf of herself and as a class action on behalf of the following defined Class:

17. Non-Exempt Employee Class:

All persons who worked at least one 3.5-hour shift as a non-exempt direct-hire or agency employee in the State of California from the period four years prior to the filing of the Action and the date of trial (“Class”).

18. Common methods of proof exist for determining these issues on a class-wide basis, including but not limited to, Defendants’ employment records, payroll records, timesheets, policies, and disciplinary records.

¹ English translation: “Employees are expected to remain at work during all work hours.”

1 19. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 50
2 Class Members have been employed as non-exempt employees by Defendants within the state of
3 California. The number of Class Members is sufficiently numerous such that joinder of all members is
4 impossible or impracticable.

5 20. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class
6 Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of
7 Class Members in all relevant respects.

8 21. **Adequacy.** There are no material conflicts between the claims of the representative
9 Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands his
10 obligation to inform the Court of any relationship, conflicts, or differences with any Class Member.
11 Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in
12 redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained
13 competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the
14 proposed class counsel, are versed in the rules governing class action discovery, certification, and
15 settlement, and will vigorously assert the claims of all Class Members. Plaintiff has incurred, and will
16 continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the
17 prosecution of this action for the substantial benefit of each Class Member.

18 22. **Existence and Predominance of Common Issues.** Common questions of law and fact
19 exist as to all Class Members and predominate over issues affecting individual Class Members, including,
20 but not limited to:

- 21 a. Whether Defendants have a common policy and/or practice of failing to accurately
- 22 record non-exempt employees' time;
- 23 b. Whether Defendants have a common policy and/or practice of rounding non-exempt
- 24 employees' time records to the detriment of those employees;
- 25 c. Whether Defendants unlawfully required Plaintiff and Class Members to remain under
- 26 Defendants' control and direction while off-the-clock;
- 27 d. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and
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1 Class Members at a minimum wage for all hours worked due to its rounding or off-the-
2 clock policies;

3 e. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and
4 Class Members required overtime wages;

5 f. Whether Defendants have a common policy and/or practice by which they
6 implemented an “auto-deduct” of 30 minutes or more for employees for meal periods
7 regardless of whether employees took a meal period or its actual length;

8 g. Whether Defendants’ auto-deduct policy and practice unlawfully deprives employees
9 of wages earned;

10 h. Whether Defendants have a common policy and/or practice of depriving Plaintiff and
11 Class Members of compliant, off-duty meal and/or rest periods;

12 i. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members
13 of compliant, off-duty meal and/or rest periods;

14 j. Whether Defendants paid Plaintiff and Class Members all required premium wages for
15 non-compliant meal and/or rest periods;

16 k. Whether Defendants have a common policy and/or practice of failing to reimburse
17 employees for necessary business expenditures;

18 l. Whether Defendants have a common policy and/or practice of discriminating against
19 employees who attempt to exercise their rights to or exercises their rights to use
20 accrued and available sick time.

21 m. Whether Defendants have a common policy and/or practice of subjecting employees to
22 discipline for attempting to exercise their rights to or exercising their rights to use
23 accrued and available sick time.

24 n. Whether Defendants have a common policy and/or practice of denying employees the
25 right to use accrued and available sick time.

26 o. Whether Defendants have a common policy and/or practice of failing to maintain
27 accurate payroll records in the State of California;
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- 1 p. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll
2 records in the State of California;
- 3 q. Whether Defendants have a policy and/or practice of failing to provide accurate wage
4 statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- 5 r. Whether Defendants unlawfully and/or willfully failed to provide accurate wage
6 statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- 7 s. Whether Defendants have a policy and/or practice of failing to timely pay wages during
8 employment in violation of Labor Code §§ 204, 210.
- 9 t. Whether Defendants have a policy and/or practice of failing to pay Plaintiff and Class
10 Members final wages owed upon termination;
- 11 u. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation
12 due to Plaintiff and Class Members upon termination of employment in violation of
13 Labor Code §§ 201, 202, and 203;
- 14 v. Whether Plaintiff and Class Members sustained damages as a result of any of the
15 aforementioned violations, and, if so, the proper measure of those damages, including
16 interest, penalties, costs, attorneys' fees, and equitable relief;
- 17 w. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code
18 § 17200, *et seq.*, by violating the above provisions of law; and
- 19 x. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code
20 § 17200, *et seq.*, by treating Plaintiff and Class Members unfairly by depriving them of
21 meal and/or rest periods, failing to provide them with compensation in lieu of meal
22 and/or rest periods, failing to pay all regular and overtime wages earned, failing to pay
23 wages upon termination, failing to reimburse business expenses, failing to comply with
24 sick leave laws, failing to furnish accurate and timely itemized wage statements upon
25 payment of wages, and failing to timely pay all compensation due during employment
26 and upon discharge.

27 23. **Superiority.** A class action is superior to other available means for the fair and efficient
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1 adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are
2 small compared to the burden and expense of individual prosecution of the complex and expensive
3 litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford
4 individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members
5 sought redress. In addition, individualized litigation increases the delay and expense to all parties and to
6 the court system resulting from the complex legal and factual issues of this case. Individualized litigation
7 also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device
8 presents far fewer management difficulties; it allows the hearing of claims which might otherwise go
9 unaddressed because of the relative expense of bringing individual lawsuits, and it provides the benefits of
10 single adjudication, economies of scale, and comprehensive supervision by a single court. Plaintiff
11 contemplates providing individual notice to members of the Class through Defendants' records.

12 **CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 ***California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198***

15 ***Failure to Pay Minimum Wages for All Hours Worked***

16 **(Plaintiff and Class Against Defendants)**

17 24. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
18 paragraphs as if fully set forth herein.

19 25. California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that payment
20 of a wage less than the minimum wage as set by statute, commission, or by the general prevailing rate is
21 unlawful. Compensable work time is defined in Wage Order No. 9 as "the time during which an employee
22 is subject to the control of an employer, and includes all the time the employee is suffered or permitted to
23 work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours
24 Worked").

25 26. Under applicable California law, rounding of time is only allowed when the policy is "fair
26 and neutral on its face and it is used in such a manner that it will not result, over a period of time, in failure
27 to compensate the employees properly for all the time they have actually worked." *See's Candy Shops, Inc.*
28

1 *v. Superior Court*, 210 Cal. App. 4th 889, 907 (2012); *see also* 29 C.F.R. § 785.48 (“For enforcement
2 purposes this practice of computing working time will be accepted, provided that it is used in such a
3 manner that it will not result, over a period of time, in failure to compensate the employees properly for
4 all the time they have actually worked.”).

5 27. On information and belief, Defendants employed a timeclock rounding policy that, over
6 time, consistently and as a matter of common policy and practice failed to pay Class Members at least
7 minimum wages for all hours worked as described above.

8 28. On information and belief, Defendants’ rounding policy also resulted in Class Members
9 working during their putative meal periods, but were not being paid for this time based on such time either
10 not being recorded as time worked or due to Defendants’ auto-deduct policy.

11 29. Defendants also failed to compensate Plaintiff and the Class for all hours worked because
12 Defendants had a policy and/or practice whereby they required and/or pressured Class Members to arrive
13 early to work and remain under Defendants’ control while off-the-clock.

14 30. Defendants further implemented a donning and doffing policy that consistently, and as a
15 matter of common policy and practice, required employees to engage in such work while off the clock
16 despite being under Defendants control during such time—depriving them of minimum wages earned,
17 including during what should have been work on the clock.

18 31. Defendants’ failure to pay Plaintiff and Class Members minimum wages for all hours
19 worked violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

20 32. Pursuant to California Labor Code section 1194.2, Plaintiff and Class Members are entitled
21 to recover the amount of underpaid wages, plus liquidated damages in an amount equal to the wages
22 unlawfully unpaid and interest thereon, along with other applicable penalties.

23 **SECOND CAUSE OF ACTION**

24 ***California Labor Code §§ 510 and 1198***

25 ***Failure to Pay Overtime Wages***

26 **(Class Against Defendants)**

27 33. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
28 paragraphs as if fully set forth herein.

1 34. California Labor Code sections 510, 1198, and Industrial Wage Order No. 9 provide that it
2 is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-
3 times that person's regular rate of pay, depending on the number of hours worked by the person on a daily
4 or weekly basis.

5 35. Specifically, Industrial Wage Order No. 9 provides that Defendants were required to pay
6 Plaintiff and Class Members working more than eight hours in a day or more than forty hours in a
7 workweek, at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or
8 more than forty hours in a workweek.

9 36. Throughout the Class Period, Class Members were not paid overtime premiums for all of
10 the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of
11 eight hours on the seventh consecutive day of work in a workweek, and/or in excess of 40 hours in a week
12 because all hours worked were not recorded as compensable time as a direct consequence of Defendants'
13 policies and practices, including without limitation its meal and rest period, on information and belief its
14 rounding and auto-deductions, and off the clock work policies and/or practices.

15 37. Defendants knew or should have known that their policies and practices forced Class
16 Members to work in excess of eight hours per workday and/or 40 hours per workweek without being
17 compensated for all hours worked. Because Class Members worked shifts of more than eight hours a day
18 or forty hours a week on the clock, some of this work qualified for overtime premium pay. Therefore, Class
19 Members were not paid overtime wages at the correct rate of pay for all of the overtime hours worked.

20 38. Pursuant to Labor Code section 1194, Class Members are entitled to recover their unpaid
21 overtime compensation, as well as interest, costs, and attorneys' fees, and applicable civil penalties.

22 **THIRD CAUSE OF ACTION**

23 ***California Labor Code §§ 226.7, 512(a), and 1198***

24 ***Failure to Provide Meal Periods or Premium Pay in Lieu Thereof***

25 **(Plaintiff and Class Against Defendants)**

26 39. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
27 paragraphs as if fully set forth herein.

28 40. Labor Code section 512(a) provides that an employer may not require, cause, or permit an

employee to work for a period of more than five hours per day without providing the employee with a meal period of not less than thirty minutes, except that if the total work period per day of the employee is not more than six hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-104 (2012). An employee is also entitled to a second meal period for shifts in which the employee works in excess of ten hours.

41. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC, including Industrial Wage Order No. 16. “An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . . an employer’s obligation is to provide an off-duty meal period: an uninterrupted 30-minute period during which the employee is relieved of all duty.” *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012). The employee must also be “free to leave the premises.” *Id.* at 1036.

42. On information and believe, Defendants’ rounding policy applied to meal period clock-in and clock-outs and frequently resulted in automatic adjustments to time records for meal periods that were less than 30-minutes but characterized for payroll purposes as having lasted for 30-minutes. *See Donohue v. Amn Servs.*, 11 Cal.5th 58, 69 (Cal. 2021) (“By requiring premium pay for any violation, no matter how minor, the structure makes clear that employers must provide compliant meal periods whenever such a period is triggered. This corroborates the conclusion that rounding is improper []. A premium pay scheme that discourages employers from infringing on meal periods by even a few minutes cannot be reconciled with a policy that counts those minutes as negligible rounding errors.”).

43. Defendants also failed to relieve Plaintiff and Class Members from all duty when on their meal period by requiring Plaintiff and Class Members to comply with an unlawful and systematic policy and practice whereby Defendants pressured Plaintiff and Class Members to prioritize completing assigned work by interrupting their meal periods and/or by requiring them to remain on premises during breaks.

44. Defendants did not pay Plaintiff and Class Members all meal period premium wages when meal periods were missed, interrupted by work, and taken late, in violation of Wage Order No. 9 and Labor

1 Code sections 226.7 and 512(a).

2 45. Defendants' conduct violates Wage Order No. 9 and Labor Code sections 512(a), 226.7,
3 and 1198. Plaintiff and Class Members are entitled to one additional hour of pay at their regular rate of
4 compensation for each workday that a compliant meal period was not provided, and interest thereon, along
5 with applicable civil penalties.

6 **FOURTH CAUSE OF ACTION**

7 ***California Labor Code §§ 226.7 and 1198***

8 ***Failure to Provide Rest Periods or Premium Pay in Lieu Thereof***

9 **(Plaintiff and Class Against Defendants)**

10 46. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
11 paragraphs as if fully set forth herein.

12 47. At all times relevant to this complaint, Defendants knew it was obligated to provide
13 compliant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

14 48. Labor Code § 226.7 provides:

15 (a) No employer shall require any employee to work during any meal or rest
16 period mandated by an applicable order of the Industrial Welfare Commission.

17 (b) If any employer fails to provide an employee a meal period or rest period
18 in accordance with an applicable order of the Industrial Welfare Commission,
19 the employer shall pay the employee one additional hour of pay at the
20 employee's regular rate of compensation for each work day that the meal or rest
21 period is not provided.

22 49. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee
23 to work during any rest or meal period mandated by an applicable order of the IWC, including Wage Order
24 No. 9. Employers must authorize and permit employees to be relieved of all duty during their rest and meal
25 periods: "A rest period, in short, must be a period of rest."² *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d

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27 ² Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; see also Department of
28 Industrial Relations, "Rest Periods/Lactation Accommodations," available at
https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm ("Q. Can my employer require that I stay on the work

1 823, 834 (2016).

2 50. Wage Order No. 9 further mandates, in pertinent part, “Authorized rest period time shall
3 be counted as hours worked for which there shall be no deduction from wages.” Cal. Code. Regs. tit. 8, §
4 11090(12)(A) (“Rest Periods”).

5 51. Employees must also be free to leave the employer’s premises during their rest period. *See*
6 *id.* at 270 (“In the context of a 10-minute break that employers must provide during the work period, a
7 broad and intrusive degree of control exists when an employer requires employees to remain on call and
8 respond during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes
9 back—if at the farthest extent of the walk he or she is not in a position to respond. Employees similarly
10 cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time.”);
11 *see also* Department of Industrial Relations, “Rest Periods,” *available at*
12 https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work
13 premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the
14 rest period requirement itself.”).

15 52. Defendants expressly operating under an unlawful Attendance Policy: “Employees are
16 expected to remain at work during all work hours.”

17 53. Defendants failed to relieve Plaintiff and Class Members from all duty when on their rest
18 period by requiring Plaintiff and Class Members to comply with an unlawful and systematic policy and
19 practice that interfered with their ability to take compliant rest periods whereby they pressured Plaintiff
20 and Class Members to prioritize completing assigned work by interrupting their rest periods and/or by
21 prohibiting them from leaving the work premises during breaks.

22 54. As a direct and proximate result of Defendants’ willful and unlawful conduct, Plaintiff and
23 Class Members have sustained damages, including lost compensation resulting from missed or non-
24 compliant rest periods, in an amount to be established at trial.

25 55. Pursuant to Wage Order No. 9 and Labor Code § 226.7(b), Plaintiff and Class Members
26 are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift

27 _____
28 premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the
rest period requirement itself.”)

1 that a compliant rest period was not provided. Defendants were aware that its actions were a violation of
2 applicable law but consistently refused to pay premium pay as required by law.

3 **FIFTH CAUSE OF ACTION**

4 ***California Labor Code § 2802***

5 ***Failure to Reimburse Necessary Business Expenses***

6 **(Plaintiff and Class Against Defendants)**

7 56. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully
8 set forth herein.

9 57. Labor Code section 2802 provides that “[a]n employer shall indemnify his or his employee
10 for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge
11 of his or his duties, or of his or his obedience to the directions of the employer.” Lab. Code § 2802.

12 58. Defendants failed to reimburse Plaintiff and Class Members for all business-related
13 expenses that were necessary to perform their job, including requiring Plaintiff and the Class to use of their
14 personal cell phones for Defendants’ business. *See Cochran v. Schwan’s Home Services, Inc.*, 228 Cal. App.
15 4th 1137 (2014).

16 59. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for the costs
17 Plaintiff and Class Members incurred plus attorneys’ fees and costs. Lab. Code § 2802.

18 **SIXTH CAUSE OF ACTION**

19 ***Lab. Code §§ 233 and 245, et seq.***

20 ***Violation of California’s Sick Leave Laws***

21 **(Plaintiff and Class Against Defendants)**

22 60. Plaintiff repeats, repleads, and incorporates by reference all allegations contained in the
23 preceding paragraphs as though fully set forth herein.

24 61. California Labor Code § 246.5(a)(1) provides in pertinent part, “Upon the oral or written
25 request of an employee, an employer shall provide paid sick days for ...[d]iagnosis, care, or treatment of an
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1 existing health condition of, or preventive care for, an employee or an employees' family member."³

2 62. California Labor Code § 246.5(c)(1) further provides that "[a]n employer shall not deny an
3 employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any
4 manner discriminate against an employee for using accrued sick days, [or] attempting to exercise the right
5 to use accrued sick days[.]"

6 63. California Labor Code § 233(c) provides in pertinent part, "An employer shall not deny an
7 employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner
8 discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend
9 to an illness or the preventative care of a family member[.]"⁴

10 64. Furthermore, "an employer absence control policy that counts sick leave taken pursuant
11 to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is
12 a *per se* violation of Section 233." Labor Code § 234. "An employee working under this policy is entitled
13 to appropriate legal and equitable relief pursuant to Section 233." *Id.*

14 65. Class Members were subject to discipline for accruing "occurrences" under Defendants'
15 absence control policy, up and including termination.

16 66. Defendants operated under a uniform sick leave policy and practice that resulted in Plaintiff
17 and Class Members being consistently discriminated against for exercising their right to use accrued and
18 available sick days whereby they were penalized under Defendants' attendance policy when they did not
19 provide at least four hours of advance notice of absences for all absences.

20 67. On information and belief, Defendants implemented an absence control policy and practice
21 that instructed employees that they could be disciplined for accruing attendance "occurrences" for
22 unscheduled absences that were automatically deemed "unexcused" regardless of compliance with its
23 unlawful four-hour notice requirement.

24
25 ³ There is no absolute requirement that an employee provide advance notice in advance of taking sick
26 leave. Rather, "If the need for paid sick leave is unforeseeable, the employee shall provide notice of the
27 need for the leave as soon as practicable." Lab. Code § 246(m).

28 ⁴ It is unlawful for an employer to designate an employee's use of their accrued sick leave. Rather, "[t]he
designation of sick leave taken for these reasons shall be made at the sole discretion of the employee.
Lab. Code § 233(a).

1 68. On information and belief, Defendants' absence control policy did not exclude leave taken
2 as California paid sick leave and counted such leave as an occurrence that subjected Class Members to
3 discipline, including accruing points.

4 69. Furthermore, on information and belief, Defendants denied Class Members the use of paid
5 sick leave for unscheduled absences where Class Members provided Defendants less than four hours'
6 worth of notice.

7 70. Defendants' policies and practices deterred employees from both attempting to exercise
8 and/or exercising their right to sick leave and subjected employees to discipline—including assigning them
9 points under Defendants' attendance policies—for attempting to use or for using accrued and available
10 paid sick.

11 71. On information and belief, Defendants' policies and practices also resulted in the unlawful
12 termination of Class Members who incurred "occurrence[s]" points even when those points should have
13 not been held against them under Labor Code §§ 233, 234, and 246.

14 72. Defendants' sick leave policies and practices—including points-based attendance policy—
15 are in *per se* violation of California's Labor Code.

16 73. Plaintiff and Class Members are entitled to backpay, front pay (or reinstatement), equitable
17 and injunctive relief, and reasonably attorney's fees and costs, in an amount subject to proof at trial. Lab.
18 Code §§ 233, 234.

19 **SEVENTH CAUSE OF ACTION**

20 ***California Labor Code §§ 226(a)/(f)/(h), 226.3, and 1174(d)***

21 ***Failure to Provide and Maintain Accurate Records***

22 **(Plaintiff and Class Against Defendants)**

23 74. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
24 paragraphs as if fully set forth herein.

25 75. Labor Code § 226 requires employers to furnish employees with an accurate, itemized
26 statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the
27 employee (for hourly-paid, non-exempt employees); (3) net wages earned; and (4) all applicable hourly
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1 rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by
2 the employee.

3 76. At all times relevant to this complaint, Defendants' failure to pay premium wages for
4 missed meal and rest periods and minimum and/or overtime wages for work-off-the-clock, or on
5 information and belief rounded time, rendered Class Members' wage statements inaccurate by failing to
6 accurately reflect gross and net wages earned, as well as actual time worked.

7 77. Injury. Defendants knowingly and intentionally failed to comply with Labor Code § 226,
8 causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly situated were
9 injured by these failures because, among other things, they were confused about whether they were paid
10 properly and/or they were misinformed about how much compensation was owed.

11 78. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of not
12 being provided with an accurate itemized wage statement is entitled to recover the greater of all actual
13 damages suffered or fifty (\$50) dollars for the initial violation and one hundred (\$100) dollars for each
14 subsequent violation, up to \$4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all others
15 similarly situated are also entitled to injunctive relief to ensure Defendants' compliance with Labor Code
16 § 226, as well as attorney's fees and costs of suit.

17 **EIGHTH CAUSE OF ACTION**

18 ***California Labor Code §§ 201, 202, 203, 204, 210***

19 **Failure to Pay Wages When Due During Employment and at Separation**

20 **(Plaintiff and Class Against Defendants)**

21 79. Plaintiff incorporates by reference all allegations contained in the preceding paragraphs as
22 if fully set forth herein.

23 80. Labor Code § 201 provides, in relevant part, that:

24 If an employee not having a written contract for a definite period quits his or her
25 employment, his or her wages⁵ shall become due and payable not later than 72

26 _____
27 ⁵ Labor Code § 200 defines "wages" as "all amounts for labor performed by employees of every
28 description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission
basis, or other method of calculation." "Labor" is defined as "labor, work, or service . . . if the labor to

hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

81. Defendants do not include definite periods of service in their contracts of employment for Class Members employed at their California plant(s). Plaintiff's contract of employment did not include a definite term.

82. Labor Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

83. Labor Code § 204 provides that all wages, other than those mentioned in Section 201 and 202, are due and payable twice during each calendar month, on days designated in advance by the employer as regular paydays.

84. Failure to Timely Pay Wages Due. As set forth above, Defendants failed to timely pay the minimum wages, overtime wages, and meal and rest period premiums resulting from its deficient timekeeping and meal and rest period policies on its regularly scheduled pay days.

85. Relief. Defendants' failure to pay Plaintiff and those Class Members wages on their regularly scheduled pay dates subjects Defendants to civil penalties in the amount of \$100 per employee per

be paid for is performed personally by the person demanding payment." Additionally, in *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal. 5th 93 (2022), the California Supreme Court held that failure to pay premiums for violating the California Labor Code's meal and rest break provisions constitutes "wages" for purposes of waiting time penalties.

1 initial violation and \$200 per employee for every subsequent violation of Labor Code § 204 pursuant to
2 Labor Code § 210.

3 86. Failure to Pay Upon Termination. Plaintiff and many Class Members have left Defendants'
4 employ during the Class Period. As discussed above, Defendants knowingly failed to pay Plaintiff and Class
5 Members all earned wages upon termination. Instead, Defendants willfully and intentionally refused to
6 pay the earned rest and/or meal period premiums and earned minimum wages as alleged herein to Plaintiff
7 and Class Members in violation of Labor Code §§ 201 and 202.

8 87. Relief. Defendants' failure to pay Plaintiff and those Class Members who are no longer
9 employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two
10 (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plaintiff and
11 Class Members are therefore entitled to recover from Defendants the statutory penalty wages for each day
12 they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

13 **NINTH CAUSE OF ACTION**

14 ***California Labor Code §§ 558, 2698, et seq.***

15 ***Private Attorneys General Act ("PAGA") Penalties***

16 ***(Plaintiff and Class Against Defendants)***

17 88. Plaintiff incorporates by reference all the allegations of this Complaint as though fully set
18 forth herein.

19 89. Entitlement to Penalties. Under the California Private Attorneys General Act ("PAGA"),
20 Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney
21 general, on behalf of herself and other current or former employees as well as the general public, to recover
22 penalties for an employer's violations of the Labor Code and IWC Wage Orders. These penalties are in
23 addition to any other relief available under the Labor Code and are allocated seventy-five percent to the
24 Labor and Workforce Development Agency and twenty-five percent to the affected employees.

25 90. These penalties may be "stacked" separately for each of Defendants' violations of the
26 Labor Code. *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77
27 (C.D. Cal. June 22, 2012) ("[F]ederal courts applying California law have concluded that stacking is
28

appropriate.”); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016) (“Finally, Plaintiff ignore the potential for stacking of PAGA penalties related to wage-and-hour claims other than the gratuities and expense reimbursement claim, i.e., meal and rest breaks, minimum wage and overtime, and workers’ compensation.”).

91. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by Defendants during the applicable statutory period and suffered the Labor Code violations alleged herein. Accordingly, she seeks to recover, on behalf of herself and all other current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, including civil penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 206.5, 210, 226, 226.3, 226.7, 227.3 233, 246, 248, 248.2, 248.5, 510, 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1401, 2802, and Industrial Wage Order No. 9, plus reasonable attorneys’ fees and costs.

92. Representative Action. Plaintiff seeks to recover the PAGA civil penalties through a representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required, but Plaintiff may choose to seek certification of the PAGA claims.

93. Penalties. Plaintiff, the aggrieved employees, and the State of California are entitled to recover the maximum civil penalties allowed by law for the violations of the Labor Code and IWC Wage Order No. 9 as alleged in this Complaint. Plaintiff and aggrieved employees are therefore entitled to civil penalties to be paid by Defendants and allocated as required by PAGA in the following formula: (a) in an amount set forth as a civil penalty in the underlying statute; or (b) \$100 per initial violation per employee per pay period, and \$200 for each subsequent violation per employee per pay period.

94. Labor Code sections 1194.2 and 1197.1 authorizes employees to recover liquidated damages in an amount equal to the wages unlawfully withheld and interest thereon. Labor Code 1197.1 also authorized civil penalties as follows: \$100 for any initial violation intentional committed per employee per pay period in which a violation occurs, and \$250 per subsequent violation per employee per pay period in which a violation occurs, regardless of whether the first violation was intentional.

95. Plaintiff is also entitled to recover for herself, other aggrieved employees, and the State of

1 California, civil penalties pursuant to Labor Code § 210 (entirely independent and apart from, any other
2 penalty provided in this article) in the amount of \$100 per employee per initial violation of the timely
3 payment requirements of Labor Code § 240 (semimonthly payments) and \$200 per employee for each
4 subsequent violation, plus 25% of the amount unlawfully withheld.

5 96. Plaintiff is also entitled to recover for herself, other aggrieved employees, and the State of
6 California, civil penalties pursuant Labor Code § 558 in the amount \$50 per underpaid employee for each
7 pay period for which the employee was underpaid and for each subsequent violation, one hundred dollars
8 (\$100) for each underpaid employee for each pay period for which the employee was underpaid.

9 97. Procedural Requirements Met. On October 31, 2023, Plaintiff electronically filed a notice
10 of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff has not received notice
11 from the LWDA that it was exercising jurisdiction over the allegations set forth in the notice. As of 65 days
12 from date of electronic filing, all requirements for administrative exhaustion for bringing these PAGA
13 claims will have been met. Labor Code § 2699.3(a)(2). A true and correct copy of Plaintiff's PAGA Notice
14 is attached herein as **Exhibit A**.

15 **TENTH CAUSE OF ACTION**

16 ***California Business and Professions Code §§ 17200, et seq.***

17 ***Violation of California's Unfair Competition Law***

18 **(Plaintiff and Class Against Defendants)**

19 98. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully
20 set forth herein.

21 99. Defendants are each a "person" as defined by California Business & Professions Code
22 § 17201, as it is a natural person, corporation, firm, partnership, joint stock company, and/or association.

23 100. Unlawful Business Practices. Defendants' knowing violations of the Labor Code and IWC
24 Wage Order No. 9 constitute an unlawful business practice as set forth in Business & Professions Code
25 § 17200, et seq.

26 101. Defendants' failure to abide by the laws discussed herein provide Defendants an unfair
27 advantage over their competitors at the expense of their workers. Instead, Defendants cut corners in the
28

1 name of higher profits and at the expense of employee well-being. Defendants' action thereby constitutes
2 an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200, *et*
3 *seq.*

4 102. Relief. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop
5 Defendants' willful and ongoing misconduct, and to seek restitution of the amounts Defendants acquired
6 through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff
7 seeks an award of costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

8 **DEMAND FOR JURY TRIAL**

9 Pursuant to California Code of Civil Procedure § 631, Plaintiff demands a trial by jury on all
10 issues so triable.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff respectfully prays judgment as follows:

- 13 A. For an Order:
- 14 a. Certifying the Class;
- 15 b. Appointing Plaintiff as representative of the Class;
- 16 c. Appointing Plaintiff's counsel as Class Counsel;
- 17 B. For actual and liquidated damages according to proof at trial;
- 18 C. For statutory and civil penalties and special damages, according to proof at trial;
- 19 D. For pre- and post-judgment interest on monetary damages;
- 20 E. For preliminary and permanent injunctive relief;
- 21 F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and
- 22 G. For such other relief as this Court deems just and proper.
- 23

24 Dated: October 31, 2023

Respectfully submitted,

25 **KING & SIEGEL LLP**

26 By: Elliot J. Siegel
27 Elliot J. Siegel, Esq.
28 Attorneys for Plaintiff and the Putative Class

1 Dated: October 31, 2023

Respectfully submitted,

2 **LAW OFFICE OF XAVIER VILLEGAS, APC**

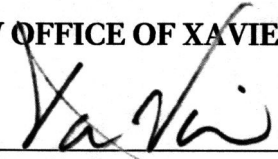
3
4 By: 
5 Xavier Villegas, Esq.
6 Attorney for Plaintiff and the Putative Class
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Exhibit A

LAW OFFICE OF
XAVIER VILLEGAS, APC

2390 Las Posas Road, C168
Camarillo, CA 93010

Email: Xavier@XavierVillegasLaw.com
Tel.: (805) 250-7488 | Fax: (805) 250-7499

October 31, 2023

Electronically Filed Via LWDA's PAGA Claim Notice Online Form

Copy Sent Via Certified Mail to:

Lattco Services Inc.
c/o Nicole Legrottaglie Wohl
CDF Labor Law LLP
18300 Von Karman Avenue, Suite 800
Irvine, CA 92612
nlegrottablie@cdflaborlaw.com

Re: Ana Molina v. Lattco Services Inc. and Valerie Latta; California Labor Code § 2699.3 Notice of Intent to File Suit

To Whom It May Concern:

Please be advised that our office, along with co-counsel King & Siegel LLP, hereby provides notice to the Labor and Workforce Development Agency ("LWDA") on behalf of our client Ana Molina of her intent to seek civil penalties against Lattco Services Inc. and Valerie Latta (collectively "Defendants") pursuant to the Private Attorney General Act of 2004 ("PAGA"), California Labor Code § 2698, *et seq.*

Ms. Molina intends to file a civil action including claims for penalties under PAGA in Sacramento County Superior Court on behalf of a group of current and former employees employed within the one-year period preceding the date of this letter (the "Aggrieved Employees") seeking civil penalties arising out of Defendants' violation of the following Labor Code sections¹:

- **California Labor Code §§ 204 and 206 (Unpaid Earned Wages):** Based on information and belief, Lattco Services Inc. implemented a uniform time clock rounding policy and practice that resulted in Ms. Molina and similarly situated employees being consistently denied minimum wages compensation for all hours worked. Lattco Services Inc. failed to record and/or compensate Ms. Molina and similarly situated employees for actual daily hours worked and instead utilized a rounding system that systemically and over time resulted in the underpayment of wages for hours worked. Upon information and belief, Lattco Services Inc. also failed to pay employees for hours worked off the clock

¹ Ms. Molina expressly reserves the right to add and/or amend any and all additional labor law violations committed against her or other similarly aggrieved current and former employees.

at the control or direction of Lattco Services Inc., including time spent donning and doffing employer required uniforms and/or protective gear, and/or failed to pay for time spent by employees under its control and direction while putatively on their meal periods.

- **California Labor Code §§ 510, 1194, and 1198 (Unpaid Overtime Wages):** Because the Ms. Molina and similarly situated employees worked shifts equal to or in excess of 8 hours, some or all of the unpaid time described above was required to be paid at applicable overtime rates. Due to the above-described policies, Lattco Services Inc. consistently failed to pay all overtime wages compensation earned by. Lattco Services Inc. failed to record and/or compensate Ms. Molina and similarly situated employees for her actual daily and/or weekly overtime hours worked.
- **California Labor Code § 512 (Meal Period Violations):** As part of a uniform policy or practice, Lattco Services Inc. required or pressured Ms. Molina and similarly situated employees to work through part of their meal periods, and otherwise interrupted or required Aggrieved Employees to receive and/or respond to management's communications during breaks. On information and belief, Lattco Services Inc.'s rounding policy also caused meal periods to be truncated. Lattco Services Inc. further failed to compensate her and Aggrieved Employees for premium wages owed when she was not allowed to take a compliant meal period.
- **California Labor Code § 226.7 (Rest Period Violations):** As part of a uniform policy or practice, Lattco Services Inc. required Ms. Molina and similarly situated employees to remain on the premises during their rest periods. Lattco Services Inc. required or pressured Ms. Molina and similarly situated employees to work through all or part of rest periods without relieving them of all duties, and otherwise interrupted or required Aggrieved Employees to receive and/or respond to management's communications during breaks. Lattco Services Inc. Inc. further failed to compensate her and Aggrieved Employees for premium wages owed when she was not allowed to take a compliant rest period.
- **California Labor Code § 2802(a) (Failure to Reimburse Business Expenses):** Lattco Services Inc. required Ms. Molina and similarly situated employees to comply with a practice that denied her reimbursements for business expenses. Ms. Molina and similarly situated employees used a personal cellular phone to complete work-related tasks, including but not limited to receiving orders from her supervisor(s) on past, current, and future assignments throughout her shifts. Because Ms. Molina and similarly situated employees used their personal cellular phones to discharge their duties, Lattco Services Inc. should have reimbursed them for these necessary expenditures.
- **California Labor Code § 233(c) (Violation of California's Kin Care Law):** Lattco Services Inc. implemented a uniform sick leave policy and practice that resulted in Ms. Molina and similarly situated employees being consistently discriminated against for

exercising their right to use accrued and available sick days. Ms. Molina, and similarly situated employees, who used or attempted to use accrued and available sick leave were denied the right to use sick leave as required under the Labor Code and/or subjected to discipline for doing so. Because Lattco Services Inc. denied Ms. Molina, and similarly situated employees, the lawful use or attempt to use accrued and available sick leave, Lattco Services Inc. violated California's Kin Care Law.

- **California Labor Code §§ 226(a), and 1174(d) (Inaccurate Wage Statements):** Lattco Services Inc. failed to provide Ms. Molina and similarly situated employees compliant wage statements because they failed to accurately show all gross wages earned, total hours worked by the employee, net regular and overtime wages earned, or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.
- **California Labor Code § 204/210 (Failure To Timely Pay Wages Penalties):** Lattco Services Inc. failed to pay Ms. Molina and similarly situated employees all wages owed on regularly scheduled paydays, including unpaid regular and overtime wages, and unpaid premium wages because they failed to pay the foregoing wages and penalties as set forth above.
- **California Labor Code § 203 (Waiting Time Penalties):** Lattco Services Inc. failed to pay Ms. Molina and similarly situated employees all wages owed, including unpaid regular and overtime wages, and unpaid premium wages, at termination of employment because they failed to pay the foregoing wages and penalties as set forth above.

This correspondence serves as notice pursuant to Labor Code § 2699.3 that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf the Aggrieved Employees as set forth in greater detail in the Complaint attached as **Exhibit A**.

We intend to fully and vigorously prosecute the representative claims alleged in this Notice, including by obtaining civil penalties under PAGA, upon expiration of the applicable notice requirements under PAGA. *See* Cal. Lab. Code §§ 2699, *et seq.*

Thank you for your anticipated courtesy and assistance regarding this matter.

* * * * *

To Lattco Services Inc.:

The Aggrieved Employees have been seriously harmed by Defendants' actions and we intend to prosecute these claims to the fullest extent of the law. Nonetheless, it is the policy of Class Counsel to attempt to negotiate an early resolution of all matters. If you are interested in seeking an early resolution through mediation on a representative and class-wide basis, including pre-mediation

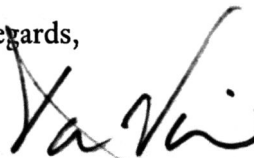
Ana Molina v. Lattco Services Inc.

October 31, 2023

Page 4 of 4

discovery, please contact the undersigned no later than November 17, 2023.

Regards,

A handwritten signature in black ink, appearing to read 'Xa Vi', is written over the word 'Regards,'.

XAVIER VILLEGAS, ESQ.