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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

CATHERINE ANDERSON, as an individual and on behalf of all others similarly situated; JOSE RODRIGUEZ, as an individual on behalf of himself and all other similarly situated,

Plaintiffs,

vs.

KINDER MORGAN, INC., a Delaware corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 23STCV25789

**SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT:**

**(1) FAILURE TO PAY ALL MINIMUM WAGES OWED (LABOR CODE §§ 1194, 1194.2, 1197);**

**(2) FAILURE TO PAY ALL OVERTIME WAGES OWED (LABOR CODE §§ 204, 510, 558, 1194, 1198);**

**(3) FAILURE TO PAY ALL WAGES AT THE AGREED-UPON RATE (LABOR CODE §§ 221-223);**

**(4) FAILURE TO PROVIDE MEAL PERIODS (LABOR CODE §§ 226.7, 512, 558);**

**(5) FAILURE TO AUTHORIZE AND PERMIT REST PERIODS (LABOR CODE §§ 226.7, 516, 558);**

**(6) FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS (LABOR CODE § 226 *et seq.*);**

**(7) WAITING TIME PENALTIES (LABOR CODE §§201-203);**

**(8) FAILURE TO INDEMNIFY ALL NECESSARY BUSINESS EXPENDITURES (LABOR CODE § 2802);**

**(9) UNFAIR COMPETITION (BUS & PROF CODE § 17200 *et seq.*); and**

**(10) CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 *et seq.*)**

**DEMAND FOR JURY TRIAL**
**UNLIMITED CIVIL CASE**


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Attorneys for Plaintiff, JOSE RODRIGUEZ

Plaintiffs Catherine Anderson and Jose Rodriguez (collectively, "Plaintiffs"), on behalf of themselves and all others similarly situated, hereby bring this Second Amended Class and Representative Action Complaint ("SAC") against Kinder Morgan, Inc., a Delaware corporation, and DOES 1 to 100, inclusive (collectively "Defendants"), and on information and belief alleges as follows:

**JURISDICTION**

1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring this SAC for recovery of unpaid wages and penalties under California Business and Professions Code § 17200 *et. seq*., Labor Code §§ 201-204, 221-223, 226 *et seq*., 226.7, 246, 510, 512, 516, 558, 1194, 1194.2, 1197, 1198, 2698 *et seq*., 2802, and Industrial Welfare Commission Wage Order 7 and/or 9 ("Wage Order"), in addition to seeking declaratory relief and restitution. This SAC is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants' violations of the California Labor Code because the amount in controversy exceeds this Court's jurisdictional minimum.

**VENUE**

2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the County of Los Angeles. Defendants transact business throughout California, including Los Angeles County and Defendants are within the jurisdiction of this Court for purposes of service of process.

**PARTIES**

3. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein, Plaintiffs were and currently are, California residents. Since September 28, 2019 and within the statute of limitations periods applicable to each cause of action pled herein, Plaintiffs were employed by Defendants as hourly, non-exempt employees. Plaintiffs were, and are, victims of Defendants' policies and/or practices complained of herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 221-223, 226 *et seq*., 226.7, 510, 512, 516, 558, 1194, 1194.2, 1197, 1198, 2698 *et seq*., 2802 and California Business and

Professions Code § 17200 *et seq*. ("Unfair Competition Law"); and Wage Order, which sets employment standards for the mercantile industry, which includes the industry in which Plaintiff worked for Defendants.

4. Plaintiffs are informed and believe, and based thereon allege, that during the four years preceding the filing of the Lawsuit in this action and continuing to the present, Defendants did (and continue to do) business by selling janitorial, sanitary, and food service supplies. Defendants employed Plaintiffs and other, similarly-situated non-exempt, hourly employees within, among other counties, Los Angeles County and the state of California and, therefore, were (and are) doing business in Los Angeles County and the State of California.

5. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this SAC when such true names and capacities are discovered. Plaintiffs are informed, and believe, and based thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiffs and the Classes (as defined in Paragraph 18) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned herein, Defendants were and are the employers of Plaintiffs and all members of the Classes.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course

and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiffs allege that all Defendants were joint employers for all purposes of Plaintiffs and all members of the Classes.

## GENERAL FACTUAL ALLEGATIONS

9. Plaintiff Anderson, a former employee, was employed by Defendants between approximately September 9, 2001 and February 1, 2023. Plaintiff worked as a non-exempt employee as a Customer Service Representative and her job duties included without limitation, training truck drivers on how to load gas, various procedures and overseeing inventory.

10. Between approximately January of 2022 and through approximately July 26, 2023, Plaintiff Rodriguez worked for Defendant as a non-exempt employee, in the position of Operator 12. In this position, Plaintiff Rodriguez would monitor Defendant's pipelines, open and close valves, and monitor various metrics.

11. Throughout Plaintiff Anderson's employment with Defendants, she was generally scheduled to work Monday through Friday from approximately 7:30 a.m. to approximately 3:30 p.m. or 8:00 a.m. to 4:00 p.m. Throughout Plaintiff Rodriguez' employment with Defendant, he generally worked 12-hour shifts, alternating between 4 days of work on one week and 3 days of work on the following week. During Plaintiffs' employment with Defendants, Plaintiffs were not fully paid for all time worked due to Defendants' timekeeping policies and practices because Defendants would unlawfully shave Plaintiffs' work time and/or round Plaintiffs' work time such that Plaintiffs would not be fully paid all wages she was rightfully owed. This time shaving/rounding practice utilized by Defendants was not-even handed over time and would round and/or shave in Defendants' favor such that Plaintiffs and non-exempt employees were routinely underpaid for their time worked, including minimum, regular and overtime wages. As a result of this policy or practice, Defendants failed to properly account for and track all time actually worked by Plaintiffs and other non-exempt, hourly employees. Because they often worked over eight hours in a day and/or 40 hours in a week, Defendants' policy and practice of failing to compensate them for all hours worked also deprived them of overtime wages owed.

12. Under California law, the determination of the regular rate of pay for purposes of

determining the amount of overtime pay must include all remuneration earned by the employee including the employee's commissions, bonuses, shift-differential pay or other non-hourly compensation. See DLSE Manual § 49.2.1.2 ("Compute the regular rate by dividing the total earnings for the week, including earnings during overtime hours, by the total hours worked during the week, including the overtime hours."); see also 29 C.F.R. § 778.118-120 ("When the commission is paid on a weekly basis, it is added to the employee's other earnings for that workweek . . . and the total is divided by the total number of hours worked in the workweek to obtain the employee's regular hourly rate for the particular workweek.").

13. The "regular rate of pay" must include "all remuneration for employment paid to, or on behalf of, the employee." Alonzo v. Maximus, Inc., 832 F. Supp. 2d 1122, 1130 (C.D. Cal. 2011). "Thus, when an employer calculates 1.5 times an employee's regular rate of pay to pay overtime, ***the employer must include bonuses, commissions, or any other income not subject to an exception in that calculation***." Brum v. Marketsource, Inc., No. 2:17-cv-241-JAM-EFB, 2017 U.S. Dist. LEXIS 94079, at *10 (E.D. Cal. June 16, 2017) (emphasis added).

14. Defendants did not include non-discretionary compensation in calculating the hourly rate of pay for overtime purposes. Instead, the regular rate of pay used for calculating the overtime rate of pay was strictly based on the employees' hourly wage (not including the non-discretionary compensation). As such, Defendants owe Plaintiffs and other members of the proposed classes additional overtime pay based on a calculation using the correct, higher rate of pay (taking into account the non-discretionary compensation).

15. During their employment with Defendants, Plaintiffs were not provided all legally required meal periods due to Defendants' unlawful meal period policies and practices. Throughout their employment with Defendants, Plaintiffs were not provided all required meal periods due to Defendants' meal period policies/practices which fail to provide uninterrupted, duty-free and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to Plaintiffs' job duties, Plaintiffs were often prevented from taking meal periods that commenced before the end of the 5$^{th}$ hour of work. As a result of Defendants' unlawful meal period policies and practices, Plaintiffs' meal periods were often late, short, missed

and/or otherwise unlawful. Additionally, during times when Plaintiffs worked in excess of 10.0 hours per shift, Defendants failed to provide Plaintiffs with a second, timely meal period of at least 30 minutes in length.

16. Although Plaintiffs and other non-exempt employees were not provided with all legally-compliant meal periods to which she was entitled, Defendants' policies and procedures failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

17. To the extent Defendant paid some penalties (one hour of pay) for certain missed or non-compliant meal or rest periods, Defendant paid such penalties at an incorrect rate that is lower than the rate required by law. More specifically, because the Legislature intended "regular rate of compensation" under Lab. Code, § 226.7, subd. (c), to have the same meaning as "regular rate of pay" under Lab. Code, § 510, subd. (a), the calculation of premium pay for a noncompliant meal, rest, or recovery period, like the calculation of overtime pay, had to account for not only hourly wages but also other nondiscretionary payments. Thus, an employer calculating premium pay for noncompliant meal or rest breaks according to the employee's base hourly rate while omitting nondiscretionary incentive payments failed to pay in accordance with the employee's regular rate of compensation. <u>Ferra v. Loews Hollywood Hotel, LLC</u>, 11 Cal. 5th 858 (2021). By doing so, Defendant underpaid each meal and rest period penalty payment. Also, by doing so, Defendant underpaid overtime wages to Plaintiffs and other employees at the incorrect rate.

18. Plaintiffs were also not authorized and permitted to take all legally required paid rest periods due to Defendants' unlawful rest period policies and practices. Specifically, Plaintiffs worked shifts in excess of 3.5 hours, but was not authorized or permitted to take a ten-minute paid rest period for every four (4) hour period worked, or *major fraction thereof*. As a result of the work demands imposed by Defendants, Defendants failed to authorize and permit duty-free rest periods for every four hours worked, or *major fraction thereof*.

19. On those occasions when Plaintiffs and other non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendants failed to compensate Plaintiffs with the required rest period premium for each

workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

20. As a result of Defendants' failure to pay all minimum and overtime wages, as well as meal and rest period premium wages and sick pay wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiffs.

21. The wage statements also did not provide accurate information by omitting the lack of meal/rest break premium pay that should have been paid to Plaintiff and the other employees. See Naranjo v. Spectrum Sec. Servs., Inc., 13 Cal. 5th 93 (2022) (Because premium pay for missed meal and rest breaks under Lab. Code, § 226.7, compensated employees for the work performed during a break period and therefore constituted wages within the meaning of Lab. Code, §§ 200, subd. (a), 203, 226, penalties could be available for an employer's alleged failure to timely pay or report such payments.).

22. As a further result of Defendants' failure to pay all minimum and overtime wages, failure to pay all meal and rest period premium wages, Defendants failed to pay all wages owed to Plaintiffs upon separation of their employment with Defendants.

23. Defendants also failed to reimburse Plaintiffs and other non-exempt employees for necessary business expenses incurred during the relevant time period. Accordingly, despite Plaintiff and the other non-exempt employees being required to incur business expenses, Defendants did not reimburse Plaintiff or other non-exempt employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law.

## CLASS ACTION ALLEGATIONS

24. **Class Definition**: Plaintiffs bring this action on behalf of themselves and the following Classes pursuant to § 382 of the Code of Civil Procedure: All persons within California who worked for Defendant as an hourly (non-exempt) employee at any time on or after September 28, 2019 through the date of class certification.

25. Plaintiffs reserve the right under Rule 3.765(b) of the California Rules of Court, to amend or modify the description of the various classes with greater specificity or further division into subclasses or limitation to particular issues.

26. **Numerosity/Ascertainability**: The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiffs at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

27. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest**: There are common questions of law and fact as to Plaintiffs and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

i. Whether Defendants properly paid all minimum wages, agreed-upon wages and/or overtime wages at the correct regular rate of pay and/or paid for all hours worked pursuant to Labor Code §§ 204, 510, 558, 1194, 1194.2, 1197, and 1198;

ii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

iii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

iv. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;

v. Whether Defendants timely paid all wages owed to members of the Waiting Time Penalty Class upon termination of employment;

vi. Whether Defendants properly reimbursed the members of the Reimbursement Class for all necessary business expenses incurred; and

vii. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

28. **Predominance of Common Questions**: Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies

and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping, minimum wage payment, overtime wage payment, meal and/or rest period policies/practices, wage statement practices, reimbursement practices, and payment of wages upon termination practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

29. **Typicality**: The claims of Plaintiffs are typical of the claims of the Classes because Plaintiffs were employed by Defendants as hourly, non-exempt employees in California during the statute(s) of limitations period applicable to each cause of action pled in the SAC. As alleged herein, Plaintiffs, like the members of the Classes, were not provided all legally required minimum and overtime wages, were not provided with all required meal periods, were not authorized and permitted to take all required rest periods, did not receive all meal and rest period premium wages when they were not provided compliant meal and rest periods, were not provided with accurate, itemized wage statements, were not reimbursed for business expenses, and were not paid all wages upon termination of employment.

30. **Adequacy of Representation**: Plaintiffs are fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiffs. Plaintiffs' attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

31. **Superiority**: The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiffs and members of the Classes make the class action format a particularly efficient and appropriate

procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 18 are maintainable as a Class under § 382 of the Code of Civil Procedure.

## FIRST CAUSE OF ACTION

## FAILURE TO PROVIDE MINIMUM WAGES OWED

## (BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)

32. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully set forth herein.

33. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198 which provide that all non-exempt hourly employees are entitled to all minimum wages for all hours worked, and provide a private right of action for the failure to pay all minimum wage compensation for all work performed.

34. At all times relevant herein, Defendants were required to properly compensate

Plaintiffs and the members of the Minimum Wage Class for all hours worked pursuant to California Labor Code §§ 1194, 1197 and 1198, and Wage Order. Section 4 of the Wage Orders require an employer to pay to every employee on the established payday for the period involved not less than the applicable minimum wage for all hours worked in the payroll period. Defendants caused Plaintiffs and the members of the Minimum Wage Class to work hours in a workweek but did not properly compensate Plaintiffs and the members of the Minimum Wage Class at least minimum wages for such hours.

35. At all relevant times herein, Defendants lacked good faith and had no reasonable grounds for believing that their practices in failing to pay all minimum wages owed at the applicable rate was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the Industrial Welfare Commission. Defendants therefore, in addition to owing minimum wages to Plaintiffs and the members of the Minimum Wage Class, also owe liquidated damages in an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to Labor Code § 1194.2.

36. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, as well as statutory penalties, liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 558, 1194, 1194.2, 1197, 1197.1 and 1198, Wage Order, California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

## <u>SECOND CAUSE OF ACTION</u>

## FAILURE TO PAY ALL OVERTIME WAGES OWED

## (BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)

37. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

38. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198 which provide that all non-exempt employees are entitled to all overtime wages for all overtime worked (hours in excess of 8 in one day and/or 40 in one week), and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

39. At all times relevant herein Defendants were required to properly compensate Plaintiffs and the members of the Overtime Class for all overtime hours worked pursuant to California Labor Code §§ 510 and 1194, and Wage Order. Labor Code § 510 and Section 3 of the Wage Orders require an employer to pay an employee "one and one-half (1½) times the regular rate of pay" for work in excess of 8 hours per workday and/or in excess of 40 hours per workweek. Labor Code § 510 and Section 3 of the Wage Orders also require an employer to pay an employee double the employee's regular rate for work in excess of 12 hours each workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiffs and the members of the Overtime Class to work in excess of 8 hours in a workday and/or 40 hours in a workweek but did not properly compensate Plaintiffs and the members of the Overtime Class at one and one-half their regular rate of pay for such hours.

40. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiffs and the members of the Overtime Class in a civil action for the unpaid amount of overtime premium owing, including interest thereon, as well as statutory penalties, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 510, 558, 1194 and 1198, Wage Order, California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

**<u>THIRD CAUSE OF ACTION</u>**

**FAILURE TO PAY ALL AGREED-UPON WAGES**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

41. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

42. This cause of action is brought pursuant to Labor Code §§ 204 and 221-223 which provide that all non-exempt employees are entitled to be paid all wages owed at the rate agreed upon with their employer, and provide a private right of action for the failure to pay all wages owed at the agreed-upon rate for all work performed.

43. At all times relevant herein, Defendants were required to properly compensate Plaintiffs and the members of the Agreed-Upon Rate Class for all hours worked at the rate agreed to with Defendants, pursuant to California Labor Code §§ 221-223. At all relevant times herein,

Defendants required Plaintiffs and the members of the Agreed-Upon Rate Class to remain under Defendants' control and perform work without paying them therefor, which resulted in Plaintiffs and the members of the Agreed-Upon Rate Class to earn less than the agreed rate for their work. This pattern and practice by Defendants of failing to pay the agreed-upon rate for all work performed violates the Labor Code and constitutes unjust enrichment.

44. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiffs and the members of the Agreed-Upon Rate Class in a civil action for the unpaid amount of agreed-upon wages owing, including interest thereon, as well as statutory penalties, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 221, and 558 California Code of Civil Procedure § 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

**FOURTH CAUSE OF ACTION**

**FAILURE TO PROVIDE MEAL PERIODS**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

45. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

46. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiffs and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and section 11 of the Wage Orders. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiffs and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 226.7, and 512.

47. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, as well as statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order, California Code of Civil Procedure § 1021.5 and Civil Code §§ 3287(b) and 3289.

**<u>FIFTH CAUSE OF ACTION</u>**

**FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

48. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

49. Section 12 of the Wage Orders and California Labor Code §§ 226.7, 516 and 558 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or *major fraction thereof*.

50. As alleged herein, Defendants failed to authorize and permit Plaintiffs and members of the Rest Period Class to take all required rest periods.

51. The foregoing violations create an entitlement to recovery by Plaintiffs and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

**<u>SIXTH CAUSE OF ACTION</u>**

**FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

52. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

53. Plaintiffs are informed and believe, and based thereon allege, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs and members of the Wage Statement Class with complete and accurate wage statements with respect to their actual regular and overtime hours worked, total gross wages earned, total deductions, employer address, and total net wages earned, all in violation of Labor Code § 226 *et seq*.

54. Defendants' failures in furnishing Plaintiffs and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, unpaid wages and unpaid rest period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

55. Defendants' failures create an entitlement to recovery by Plaintiffs and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq*., including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq*.

**SEVENTH CAUSE OF ACTION**

**WAITING TIME PENALTIES**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

56. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

57. This cause of action is brought pursuant to Labor Code §§ 201-203 which require an employer to pay all wages immediately at the time of termination of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

58. Defendants failed to timely pay Plaintiff all of their final wages at the time of termination, which include, among other things, underpaid minimum and overtime wages and meal and rest period premium wages. Further, Plaintiffs are informed and believe, and based thereon allege, that as a matter of uniform policy and practice, Defendants continue to fail to pay class members of the Waiting Time Penalty Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

59. Defendants' willful failure to timely pay Plaintiffs and the members of the Waiting Time Penalty Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiffs and members of the Waiting Time Penalty Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

## EIGHTH CAUSE OF ACTION

**FAILURE TO INDEMNIFY ALL NECESSARY BUSINESS EXPENDITURES**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

60. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

61. This cause of action is brought pursuant to Labor Code § 2802, which requires an employer to "indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

62. As alleged herein, and due to their unlawful reimbursement policies and/or practices, Defendants failed to indemnify PlaintiffS and the members of the Reimbursement Class all of their necessary business expenses incurred in the course of their employment.

63. As a proximate result of Defendants' failure to indemnify Plaintiffs and the members of the Reimbursement Class for their necessary business expenses incurred, Plaintiffs and members of the Reimbursement Class are entitled to damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code § 2802

## NINTH CAUSE OF ACTION

**UNFAIR COMPETITION**

**(BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

64. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

65. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq*., by failing to authorize and permit all required rest periods, or pay premium payments in lieu thereof.

66. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and

attempting to do so in honest compliance with applicable wage and hour laws.

67. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

68. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which she is entitled to recover under Code of Civil Procedure § 1021.5.

**TENTH CAUSE OF ACTION**

**PRIVATE ATTORNEYS GENERAL ACT OF 2004, LABOR CODE SECTION 2698 ET SEQ.**

**(REPRESENTATIVE ACTION BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST DEFENDANTS)**

69. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

70. Defendants have committed several Labor Code violations against Plaintiffs and other aggrieved employees. Plaintiffs, "aggrieved employees" within the meaning of Labor Code § 2698 *et seq*., acting on behalf of themselves and other aggrieved employees, bring this representative action against Defendants to recover the civil penalties due to Plaintiffs, the other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) $100.00 for each initial violation for each failure to pay each employee and $200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) $250.00 for each initial violation and $1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) $50.00 for each initial violation and $100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) $100.00 for each initial violation and $200.00 for each

subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Plaintiffs and other aggrieved employees the statutory minimum wage for all hours worked;

b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiffs and other aggrieved employees all overtime compensation earned;

c) Defendants violated Labor Code §§ 221-223 by failing to pay Plaintiffs and the aggrieved employees all wages owed at the agreed-upon rate;

d) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiffs and the aggrieved employees;

e) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiffs and the aggrieved employees;

f) Defendants violated Labor Code § 226 by failing to furnish Plaintiffs and other aggrieved employees with accurate and compliant itemized wage statements;

g) Defendants violated Labor Code §§ 204 and 210 by failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice during each calendar month;

h) Defendants violated Labor Code § 2802 by failing to reimburse Plaintiffs and the aggrieved employees for all expenses necessarily incurred in the course of their employment; and

i) Defendants violated Labor Code §§201-203 by failing to pay Plaintiffs and other aggrieved employees all earned wages at the time of termination; and

j) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees. On October 25, 2023,

71. Plaintiff Anderson notified Defendants via certified mail, and the California Labor

and Workforce Development Agency ("LWDA") via e-mail, of Defendants' violations of the California Labor Code and Plaintiff Anderson's intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 56 (a)-(h). Attached hereto as **Exhibit A** is a true and correct copy of the October 25, 2023 correspondence. Now that sixty-five days have passed from Plaintiff Anderson notifying Defendants of these violations, Plaintiff Anderson has exhausted her administrative requirements for bringing a claim under the Labor Code Private Attorneys General Act with respect to these violations.

72. On September 28, 2023, counsel for Plaintiff Rodriguez prepared and electronically submitted a letter to the California Labor & Workforce Development Agency ("LWDA") via the California Department of Industrial Relations' "PAGA Filing" website. A copy of the letter was mailed to Defendant, also via USPS Certified Mail. The letter contained the specific provisions of the California Labor Code violated by Defendant, as well as the facts and theories in support of Plaintiff Rodriguez' claims. Attached hereto as **Exhibit B** is a true and correct copy of the September 28, 2023 correspondence. Now that sixty-five (65) days have passed since Plaintiff notified Defendant of these violations, the statutory time period for the LWDA to investigate and/or respond, and for the employer to respond, has concluded. Plaintiff has exhausted the administrative requirements for bringing a claim under the PAGA for these violations.

73. Plaintiffs were compelled to retain the services of counsel to file this court action to protect their interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby incurred attorneys' fees and costs, which they are entitled to receive under California Labor Code § 2699.

## PRAYER

WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiffs as representatives of the Classes;

3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;

4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 558, 1194, 1194.2, 1197, 1197.1 and 1198;

5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, and 221-223.

7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

8. Upon the Fifth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

9. Upon the Sixth Cause of Action, for statutory wage statement penalties pursuant to Labor Code § 226 *et seq*.;

10. Upon the Seventh Casuse of Action, for statutory waiting time penalties pursuant to Labor Code §§201-203;

11. Upon the Eighth Cause of Action for compensatory and special damages according to proof pursuant to Labor Code § 2802;

12. Upon the Ninth Cause of Action, for restitution to Plaintiffs and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq*.;

13. Upon the Tenth Cause of Action, for civil penalties due to Plaintiffs, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) $100.00 for each initial violation for each failure to pay each employee and $200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) $250.00 for each initial violation and $1,000.00 for

each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) $50.00 for each initial violation and $100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) $100.00 for each initial violation and $200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations cited in Paragraph 56 (a)-(h) above

14. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

15. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 218.5 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

16. For such other and further relief the Court may deem just and proper.

Dated: August 5, 2025

Respectfully submitted,
LIDMAN LAW, APC

By: Scott M. Lidman

Scott M. Lidman
Attorneys for Plaintiff
CATHERINE ANDERSON

Dated: August 5, 2025

Respectfully submitted,

**Azadian Law Group, PC**

By: George S. Azadian

George S. Azadian
Attorney for Plaintiff
JOSE RODRIGUEZ

## DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

Respectfully submitted,

Dated: August 5, 2025

LIDMAN LAW, APC

By: ______________________

Scott M. Lidman
Attorneys for Plaintiff
CATHERINE ANDERSON

Dated: August 5, 2025

Respectfully submitted,

**Azadian Law Group, PC**

By: ______________________

George S. Azadian
Attorney for Plaintiff
JOSE RODRIGUEZ

# EXHIBIT A

EXHIBIT A

October 25, 2023

**VIA LWDA WEBSITE**
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED**
Kinder Morgan, Inc., a Delaware corporation
1001 Louisiana St., Ste. 1000
Houston, TX 77002

**VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED**
Kinder Morgan, Inc., a Delaware corporation
c/o Capitol Corporate Services, Inc., Registered Agent
455 Capitol Mall, Ste. 217
Sacramento, CA 95814

Re: *Catherine Anderson v. Kinder Morgan, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Catherine Anderson ("Ms. Anderson") in claims arising from her employment with Kinder Morgan, Inc., a Delaware corporation ("Defendant"). Ms. Anderson is an "aggrieved employee" as defined by Labor Code sections 2699, *et seq*. due to Defendant's numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, unless otherwise noted, an "aggrieved employee" should be considered to include all current and former hourly, non-exempt employees working for Defendant in California during the one year immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Ms. Anderson files a civil lawsuit seeking civil penalties.

Ms. Anderson, a former employee, was employed by Defendant between approximately September 9, 2001 and February 1, 2023. Ms. Anderson worked as a non-exempt employee as a Customer Service Representative and her job duties included without limitation, training truck drivers on how to load gas, various procedures, and overseeing inventory.

Throughout Ms. Anderson's employment with Defendant, Ms. Anderson was generally scheduled to work Monday through Friday from approximately 7:30 a.m. to approximately 3:30 p.m. or 8:00 a.m. to 4:00 p.m. During her employment with Defendant, Ms. Anderson was not fully paid for all time worked due to Defendant's timekeeping policies and practices because Defendant would unlawfully shave Ms. Anderson's work time and/or round Ms. Anderson's work time such that Ms. Anderson would not be fully paid all wages she was rightfully owed. This time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and/or shave in

Defendant's favor such that Ms. Anderson and non-exempt employees were routinely underpaid for their time worked, including minimum and overtime wages. As a result of this policy or practice, Defendant failed to properly account for and track all time actually worked by Ms. Anderson and other non-exempt, hourly employees. Because they often worked over eight hours in a day and/or 40 hours in a week, Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of overtime wages owed.

During her employment with Defendant, Ms. Anderson was not provided all legally required meal periods due to Defendant's unlawful meal period policies and practices. Throughout her employment with Defendant, Ms. Anderson was not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to Ms. Anderson's job duties, Ms. Anderson was often prevented from taking meal periods that commenced before the end of the 5th hour of work. As a result of Defendant's unlawful meal period policies and practices, Ms. Anderson meal periods were often late, short, missed and/or otherwise unlawful. Additionally, during times when Ms. Anderson worked in excess of 10.0 hours per shift, Defendant failed to provide Ms. Anderson with a second, timely meal period of at least 30 minutes in length.

Although Ms. Anderson and other non-exempt employees were not provided with all legally-compliant meal periods to which she was entitled, Defendant's policies and procedures failed to compensate them with the required meal period premium for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7.

Ms. Anderson was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Ms. Anderson worked shifts in excess of 3.5 hours, but was not authorized or permitted to take a ten-minute paid rest period for every four (4) hour period worked, or major fraction thereof. As a result of the work demands imposed by Defendant, Defendant failed to authorize and permit duty-free rest periods for every four hours worked, *or major fraction thereof*.

On those occasions when Ms. Anderson and other non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which she was entitled, Defendant failed to compensate Ms. Anderson with the required rest period premium for each workday in which she experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all minimum and overtime wages, as well as meal and rest period premium wages and sick pay wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Anderson.

As a further result of Defendant's failure to pay all minimum and overtime wages, failure to pay all meal and rest period premium wages, Defendant failed to pay all wages owed to Ms. Anderson upon separation of her employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 7 and/or 9 ("Wage Order 7 and/or 9"):

Minimum Wage Violations

Defendant was required to pay Ms. Anderson and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197, 1197.1; The Wage Order 7 and/or 9, § 4. Ms. Anderson and other aggrieved employees were not paid for all hours worked due to Defendant's unlawful practices and procedures. As alleged above, throughout Ms. Anderson's employment with Defendant, Ms. Anderson was generally scheduled to work Monday through Friday from approximately 7:30 a.m. to approximately 3:30 p.m. or 8:00 a.m. to 4:00 p.m. During her employment with Defendant, Ms. Anderson was not fully paid for all time worked due to Defendant's timekeeping policies and practices because Defendant would unlawfully shave Ms. Anderson's work time and/or round Ms. Anderson's work time such that Ms. Anderson would not be fully paid all wages she was rightfully owed. This time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and/or shave in Defendant's favor such that Ms. Anderson and other aggrieved employees were routinely underpaid for their time worked, including minimum wages. As a result of this policy or practice, Defendant failed to properly account for and track all time actually worked by Ms. Anderson and other aggrieved employees.

Overtime Violations

Defendant was required to pay Ms. Anderson and other aggrieved employees (excluding truck drivers) overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 7 and/or 9, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee." As alleged above, throughout Ms. Anderson's employment with Defendant, Ms. Anderson was generally scheduled to work Monday through Friday from approximately 7:30 a.m. to approximately 3:30 p.m. or 8:00 a.m. to 4:00 p.m. During her employment with Defendant, Ms. Anderson was not fully paid for all time worked due to Defendant's timekeeping policies and practices because Defendant would unlawfully shave Ms. Anderson's work time and/or round Ms. Anderson's work time such that Ms. Anderson would not be fully paid all wages she was rightfully owed. This time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and/or shave in Defendant's favor such that Ms. Anderson and other aggrieved employees (excluding truck drivers) were routinely underpaid for their time worked, including overtime wages. As a result of this policy or practice, Defendant failed to properly account for and track all time actually worked by Ms. Anderson and other aggrieved employees (excluding truck drivers). Because they often worked over eight hours in a day and/or 40 hours in a week, Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of overtime wages owed.

Meal Period Violations

As alleged above, Defendant failed to provide the aggrieved employees (excluding truck drivers) with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 7 and/or 9, § 11. As described above, due to Ms. Anderson's job duties, Ms. Anderson was often prevented from taking meal periods that commenced before the end of the 5th hour of work. As a result of Defendant's unlawful meal period policies and practices, Ms. Anderson meal periods were often late, short, missed and/or otherwise unlawful. Additionally, during times when Ms. Anderson worked in excess of 10.0 hours per shift, Defendant failed to provide Ms. Anderson with a second, timely meal period of at least 30 minutes in length. Therefore, Ms. Anderson and the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with … [an] order of the Industrial Welfare Commission … the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Ms. Anderson and other aggrieved employees (excluding truck drivers) were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

## Rest Period Violations

Defendant also failed to authorize and permit their aggrieved employees (excluding truck drivers) to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 7 and/or 9, § 12. Specifically, Ms. Anderson and other aggrieved employees were not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices, which upon information and belief, fail to authorize and permit all rest periods for every four hours worked, *or major fraction thereof*. As a result, Ms. Anderson and the aggrieved employees (excluding truck drivers) are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

## Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Anderson and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all overtime wages earned, meal and rest period premiums, total gross wages earned, and total net wages earned, in violation of Labor Code § 226 *et seq*. Defendant's failure to furnish Ms. Anderson and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and/or overtime wages earned and meal and rest period premiums, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Ms. Anderson will initiate a civil action on behalf of herself and other aggrieved employees as identified above to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Anderson's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Anderson and other aggrieved employees the statutory minimum wage for all hours worked;

b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Anderson and other aggrieved employees (excluding truck drivers) all overtime compensation earned;

c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Anderson and the aggrieved employees (excluding truck drivers);

d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Anderson and the aggrieved employees (excluding truck drivers);

e) Defendant violated Labor Code § 226 by failing to furnish Ms. Anderson and other aggrieved employees with accurate and compliant itemized wage statements;

f) Defendant violated Labor Code §§ 204 and 210 by failing to pay Ms. Anderson and other aggrieved employees all earned wages at least twice during each calendar month;

g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Anderson and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC

Scott M. Lidman

EXHIBIT B

EXHIBIT B

AZADIAN LAW GROUP, PC
EMPLOYMENT LAW AND WRONGFUL TERMINATION ATTORNEYS

707 Foothill Blvd., Suite 200
La Cañada, California 91011
Phone: 626-449-4944 │ Fax: 626-628-1722
Pasadena │Downtown LA │Newport Beach
WWW.AZADIANLAWGROUP.COM

**Submitted Via Online Filing** September 28, 2023

Labor and Workforce Development Agency
Attn. PAGA Administrator

**Re:** *JOSE RODRIGUEZ V. KINDER MORGAN, INC.*

Dear Administrator,

Please allow this correspondence to serve as written notice, as required by California Labor Code § 2699.3(a)-(c), of the specific provisions of the California Labor Code violated by KINDER MORGAN, INC. ("Defendant"). As detailed below, Plaintiff Jose Rodriguez ("Plaintiff") on behalf of himself and other non-exempt employees in the state of California ("aggrieved employees") alleges that Defendant has violated the following Labor Code provisions:

a. Non-compliant wage statements in violation of California Labor Code § 226(a).
b. Failure to provide compliant meal periods in violation of California Labor Code §§ 226.7 and 512 and IWC Wage Order.
c. Failure to provide compliant rest periods in violation of California Labor Code §§ 226.7 and 512 and IWC Wage Order.
d. Failure to pay all wages upon resignation or termination in violation of California Labor Code §§ 201-203.
e. Failure to keep payroll records showing total hours worked and wages paid in violation of California Labor Code §§1174-1174.5 and IWC Wage Order.

Between approximately January of 2022 and through approximately July 26, 2023, Plaintiff worked for Defendant as a non-exempt employee, in the position of Operator 12.

Plaintiff and other aggrieved employees working for Defendant were compensated based on an hourly rate.

Defendant did not provide Plaintiff and other aggrieved employees with accurate wage statements as required under California law. California Labor Code § 226 requires "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."

The wage statements provided to Plaintiff and other aggrieved employees did not reflect or did not accurately reflect the gross wages earned because this amount was not separately stated and instead was included with "imputed income".

The wage statements provided to Plaintiff and other aggrieved employees did not reflect or did not accurately reflect the total hours worked by the employee due to containing numerous confusing entries, including but not limited to: "CURRENT ESTIMATE", "CURRENT SOT", "SCHED OVERTIME", "PRIOR SOT", and "PRIOR ESTIMATE".

The wage statements also did not provide accurate information by understating the lack of meal/rest break premium pay that should have been paid to Plaintiff and the other aggrieved employees. Naranjo v. Spectrum Sec. Servs., Inc., No. S258966, 2022 Cal. LEXIS 2878 (May 23, 2022) (Because premium pay for missed meal and rest breaks under Lab. Code, § 226.7, compensated employees for the work performed during a break period and therefore constituted wages within the meaning of Lab. Code, §§ 200, subd. (a), 203, 226, penalties could be available for an employer's alleged failure to timely pay or report such payments.).

Plaintiff and other aggrieved employees were not able to promptly and easily determine the missing information without reference to other documents or information.

During Plaintiff's employment by Defendant, Plaintiff and other aggrieved employees working for Defendant were forced to miss taking compliant meal periods (30-minute meal periods after the first five hours worked) due to the demands placed on them by Defendant. Moreover, Plaintiff and other non-exempt hourly employees were deprived of taking a second meal period after ten hours worked. Plaintiff and other aggrieved employees were also subjected to a policy or remaining on the premises during their meal periods.

During Plaintiff's employment by Defendant, Plaintiff and other aggrieved employees working for Defendant were forced to miss taking compliant rest periods (ten minutes rest time per four hours worked) due to the demands placed on them by Defendant. Plaintiff and other aggrieved employees were also subjected to a policy or remaining on the premises during their rest periods.

Defendant failed to pay all penalties owed for noncompliant rest and meal periods (premium pay as required by Labor Code § 226.7(b) and Sections 11 and 12 of the applicable Wage Order in lieu of meal and/or rest periods).

Based on these underpayments of meal/rest period penalties, Plaintiff and other aggrieved employees who were terminated or resigned did not receive all wages owed to them upon termination or within seventy-two (72) hours after resignation.

Defendant violated California Labor Code §§ 1174, 1174.5 by failing to keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to employees employed at the respective plants or establishments.

Based on the foregoing detailed facts, Defendant undertook actions against Plaintiff and other aggrieved employees that violated the above-enumerated provisions of the California Labor Code and applicable Wage Order.

To confirm, Defendant is a "person" as defined within California Labor Code section 18.

As detailed above, Defendant has violated or has caused to be violated a number of California wage and hour laws. Plaintiff requests the agency investigate the above allegations and provide notice of the allegations pursuant to PAGA's provisions. Alternatively, Plaintiff requests the agency inform them if it does not intend to investigate these violations so that Plaintiff may proceed by filing a Court Action under PAGA on behalf of himself and other aggrieved employees.

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Thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Best Regards,

George S. Azadian, Esq.
AZADIAN LAW GROUP, PC

cc: *Via Certified U.S. Mail*

KINDER MORGAN, INC.
1001 LOUISIANA ST., STE 1000
HOUSTON, TX 77002