

1 GRAHAMHOLLIS APC
Vilmarie Cordero (SBN 268860)
2 vcordero@grahamhollis.com
Nora J. Steinhagen (SBN 338969)
3 nsteinhagen@grahamhollis.com
3555 Fifth Avenue, Suite 200
4 San Diego, California 92103
Telephone: 619.692.0800
5 Facsimile: 619.692.0822

6 *Attorneys for Plaintiff Naomi Hudson and Aggrieved*
7 *Employees*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SONOMA**

10 NAOMI HUDSON, on behalf of herself and all
11 other aggrieved employees of Defendants in
the State of California,

12 Plaintiffs,

13 v.

14 WILHELM LLC, and DOES 1 THROUGH 50,
15 inclusive,

16 Defendants.
17
18

Case No. 23CV02033

Unlimited Civil
Amount Demanded exceeds \$25,000.00

COMPLAINT

**REPRESENTATIVE ACTION FOR
PAGA PENALTIES**

[Labor Code §§ 2698, *et seq.*]

1. Violation of the Private Attorneys General
Act of 2004, Labor Code §§ 2698, *et seq.*

– JURY TRIAL DEMANDED –

Naomi Hudson, on behalf of herself and all other aggrieved employees of Wilhelm, LLC and DOES 1 through 50, inclusive, alleges as follows:

I.

INTRODUCTION

1. Plaintiff NAOMI HUDSON (“Plaintiff”) brings this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”) against Wilhelm, LLC (“Wilhelm”), and DOES 1 through 50, inclusive (collectively, “Defendants”), on behalf of all other current and former non-exempt employees who were employed by Defendants in the State of California during the applicable relevant time period and suffered at least one wage and hour violation alleged herein due to Defendants’ willful pattern of committing wage and hour violations under the California Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order.

2. Plaintiff is informed and believes, and thereon alleges, that Defendants decreased their employment-related costs by systematically violating California wage and hour laws.

3. Plaintiff brings this action on behalf of all other current and former non-exempt employees of Defendants in the State of California at any time one year and 65 days prior to the filing of this Complaint through the present (hereinafter “aggrieved employees”).

4. Defendants’ systematic pattern of Labor Code and IWC Wage Order violations toward Plaintiff and other aggrieved employees in California include, but are not limited to:

- a. Defendants’ failure to pay minimum, regular, and overtime wages;
- b. Defendants’ failure to provide compliant meal periods and authorize and permit rest periods;
- c. Defendants’ failure to reimburse for business expenses;
- d. Defendants’ failure to provide suitable seating;
- e. Defendants’ failure to provide recovery periods;
- f. Defendants’ failure to pay reporting time pay;
- g. Defendants’ failure to maintain accurate records;
- h. Defendants’ failure to provide accurate itemized wage statements; and
- i. Defendants’ failure to timely pay all wages due

II.

A. Plaintiff

8. Plaintiff is an “aggrieved employee” within the meaning of Labor Code section 2699(c) because she was employed by Defendants and suffered one or more of the Labor Code violations committed by Defendants.

B. Defendants

11. The true names and capacities of the Defendants named as DOES 1 THROUGH 50, inclusive, are presently unknown to Plaintiff. Plaintiff will amend this Complaint, setting forth the true names and capacities of the fictitious Defendants, if and when their true names and capacities are ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitious Defendants participated in the acts alleged in this Complaint.

12. At all relevant times, Defendants were Plaintiff's "employer" as defined in and subject to the Labor Code and the IWC Wage Orders.

13. Plaintiff is informed and believes that at all relevant times, each Defendant, whether named or fictitious, was the agent, employee or other person acting on behalf of every other Defendant, and, in participating in the acts alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts of each other Defendant.

14. Plaintiff is informed and believes that at all relevant times, each Defendant, whether named or fictitious, exercised control over Plaintiff's and aggrieved employees' wages, hours and/or working conditions and was the alter ego of each of the other Defendants. Thus, Plaintiff is informed and believes that each Defendant, whether named or fictitious, committed the violations alleged in this Complaint within the scope of such agency or employment and ratified the acts of each other Defendant.

15. Plaintiff is further informed and believes that at all relevant times, each Defendant, whether named or fictitious, acted as the agent for the other Defendants in carrying out a joint scheme, business plan or policy, and that a unity of interest and ownership between each Defendant exists such that all Defendants acted as a single employer and that the acts of each Defendant are legally attributable to all other Defendants.

16. Defendants, including DOES 1 THROUGH 50, were Plaintiff's employers or persons acting on behalf of Plaintiff's employer, within the meaning of California Labor Code sections 558 and 558.1, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code sections 558 and 558.1, at all relevant times.

17. Defendants, including DOES 1 THROUGH 50, were Plaintiff's employers or persons acting on behalf of Plaintiff's employer either individually or as an officer, agent, or employee of another person, within the meaning of California Labor Code section 1197.1, who paid or caused to be paid to any employee a wage less than the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid employee.

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III.

JURISDICTION AND VENUE

18. This Court has subject-matter jurisdiction to hear this case because Plaintiff is informed and believes that the monetary damages and restitution sought herein for Defendants' conduct exceeds the minimum jurisdictional limits of the Superior Court.

19. Venue is proper in Sonoma County pursuant to Code of Civil Procedure Sections 395(a) and 395.5 because liability arose in the city of Santa Rosa, located in Sonoma County. Thus, at least some of the transactions that are the subject matter of this Complaint occurred therein, and Defendants transact substantial business in Sonoma County.

IV.

GENERAL ALLEGATIONS

20. Plaintiff NAOMI HUDSON is a former non-exempt employee of Defendants who worked as a flagger for Defendants in Santa Rosa from approximately January 10, 2022 until approximately August of 2023.

21. Plaintiff typically worked at least forty hours per week directing traffic at various work sites. As a flagger, Plaintiff's job duties included safely redirecting traffic at work sites where Defendants' clients were completing jobs such as fixing telephone poles and manholes.

22. Defendants denied Plaintiff and, on information and belief, other aggrieved employees certain rights afforded to them under the California Labor Code and Industrial Welfare Commission Wage Orders. Defendants, on information and belief, denied Plaintiff and other aggrieved employees in California specific rights afforded to them under the California Labor Code and the IWC Wage Order. Specifically, Defendants failed to pay minimum, regular, and overtime wages; failed to provide compliant meal periods and authorize and permit rest periods; failed to reimburse for business expenses; failed to provide adequate seats, failed to provide recovery periods; failed to pay reporting time pay; failed to maintain accurate records; failed to provide accurate itemized wage statements; and failed to timely pay all wages due.

23. For example, Defendants did not provide Plaintiff and other aggrieved employees the opportunity to take compliant 30-minute, off-duty meal periods because they did not relieve them of all

1 duties and did not authorize or permit meal periods within the legal limits. Plaintiff and, on information
2 and belief, other aggrieved employees were also required to remain on duty and direct traffic without any
3 scheduled periods of relief from their job duties. Plaintiff and other aggrieved employees regularly worked
4 through their meal periods or took their meal periods after the end of the fifth hour of work because they
5 were required to guard both the individuals performing work in traffic zones as well as equipment such as
6 rigs, and they were not permitted to leave either unattended. Furthermore, Defendants, on information and
7 belief, did not authorize or permit a second meal period when Plaintiff and aggrieved employees worked
8 shifts longer than ten (10) hours. Yet, regardless of whether Plaintiff and, on information and belief, other
9 aggrieved employees took legally compliant meal periods, Defendants automatically deducted time for
10 meal periods.

11 24. The nature of Plaintiff's and other aggrieved employees' duties did not prevent them from
12 being relieved of all job duties for a compliant 30-minute off-duty meal period. The on-duty meal periods
13 were for the convenience of Defendants to avoid incurring the cost associated with scheduling additional
14 employees. Accordingly, although Plaintiff and other aggrieved employees did not receive legally
15 compliant meal periods, Defendants did not pay Plaintiff and other aggrieved employees the additional
16 one hour of pay at each employee's regular rate of pay as required under Labor Code section 226.7 and
17 the applicable IWC Wage Order. In fact, Defendants never compensated Plaintiff and, on information and
18 belief, other aggrieved employees an additional hour of pay at the employee's regular rate of pay for each
19 work period during which a meal period was not provided, as required under California law.

20 25. For these same reasons, Defendants also did not authorize or permit Plaintiff and other
21 aggrieved employees to take legally compliant rest periods. Despite the fact that Plaintiff and other
22 aggrieved employees rarely received off-duty rest periods, Defendants did not pay Plaintiff and other
23 aggrieved employees the additional one hour of pay at each employee's regular rate of pay as required
24 under Labor Code section 226.7 and the applicable IWC Wage Order. In fact, Defendants never
25 compensated Plaintiff, and on information and belief, other aggrieved employees an additional hour of
26 pay at the employee's regular rate of pay for each work period during which a rest period was not provided
27 every four hours worked, or major fraction thereof, as required under California law.
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1 26. In addition, Defendants failed to provide Plaintiff and, on information and belief, other
2 aggrieved employees with compliant recovery periods, or cooldown periods meant to prevent heat illness.
3 The temperature at Plaintiff and aggrieved employees' outdoor work sites often exceeded 80 degrees.
4 Despite this, Defendants did not provide them with off-duty access to shade when the outdoor temperature
5 at the worksite exceeded 80 degrees Fahrenheit, nor did they provide suitably cool water. On information
6 and belief, Defendants did not have any written policy or practice addressing recovery periods, and they
7 did not inform Plaintiff and aggrieved employees of their right to heat recovery periods and their right to
8 have off-duty access to shade and water during their shifts while working outside. Defendants also failed
9 to pay Plaintiff and, on information and belief, other aggrieved employees an additional hour of pay when
10 they were not provided with compliant recovery periods. Therefore, Defendants failed to provide Plaintiff
11 and other aggrieved employees recovery periods.

12 27. Further, Plaintiff and other aggrieved employees are not paid all minimum, regular, and
13 overtime wages. Plaintiff and other aggrieved employees regularly work over eight hours in a workday
14 and/or forty hours in a workweek. Plaintiff and other aggrieved employees are consistently required to
15 work off the clock throughout the entirety or a portion of their meal breaks, yet Defendants have a practice
16 of auto-deducting thirty minutes for meal periods regardless of the length of time that Plaintiff and, on
17 information and belief, other aggrieved employees actually spent taking a meal period.

18 28. In addition, Plaintiff and other aggrieved employees were not paid all minimum, regular,
19 and overtime wages because Defendants altered Plaintiff's and, on information and belief, other aggrieved
20 employees', time records and total hours worked to avoid paying overtime wages.

21 29. Moreover, Defendants had an improper practice of paying Plaintiff and other aggrieved
22 employees based on their scheduled shift hours, rather than the hours actually worked. Plaintiff and
23 aggrieved employees frequently worked in excess of their scheduled shift, including over eight hours in a
24 workday and/or forty hours in a work week. Nevertheless, Defendants did not pay Plaintiff and other
25 aggrieved employees for any hours exceeding their scheduled shifts. Thus, Defendants did not pay
26 Plaintiff and other aggrieved employees all minimum, regular, and/or overtime wages for all hours
27 worked.
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30. In addition, Defendants failed to pay Plaintiff and, on information and belief, other aggrieved employees the required amount of reporting time pay for the time they reported to work but were not put to work. For example, on at least one occasion, Plaintiff reported to work, but after completing her 2.5-hour drive and reporting to the worksite, was informed that she was no longer needed. Despite being required to report for work, reporting to work, and not being put to work, Defendants did not pay her any reporting time wages. Therefore, Defendants failed to pay Plaintiff and, on information and belief, other aggrieved employees reporting time pay.

31. In addition, Defendants failed to reimburse Plaintiff and other aggrieved employees for all necessary business expenses. For example, Plaintiff and, on information and belief, other aggrieved employees were required to use their personal cell phones to perform work duties, including clocking in and out of scheduled shifts. Additionally, on at least one occasion, Plaintiff was required to purchase her own hotel room for three nights while performing a job assignment for Defendants and was denied reimbursement. Therefore, Defendants failed to reimburse Plaintiff and other aggrieved employees for necessary business expenses.

32. Defendants failed to provide Plaintiff and aggrieved employees with suitable seats although the nature of the work reasonably permits the use of seats. Plaintiff and aggrieved employees were not provided with any seats to use during their shifts.

33. As a direct result of Defendants' illegal policies and procedures, Defendants failed to maintain accurate records reflecting all of Plaintiff's and other aggrieved employees' time worked and wages paid, in violation of California law.

34. In addition, the wage statements issued by Defendants did not include the correct total regular and overtime hours worked, the correct applicable hourly rates and corresponding number of hours worked at each hourly rate, and the correct amount of gross and net wages earned, as required under Labor Code section 226. For example, the wage statements issued by Defendants did not reflect the correct number of hours worked and wages earned because of Defendants' policy of automatically deducting meal periods regardless of whether employees were provided a compliant and off-duty meal period, and of paying aggrieved employees based on their scheduled shifts rather than hours actually worked. The wage

1 statements also did not reflect the one hour of premium pay owed for instances where aggrieved employees
2 did not receive a legally compliant meal, rest, or recovery period.

3 35. As a direct result of the aforementioned Labor Code violations, Defendants did not pay
4 Plaintiff and all aggrieved employees all wages due and payable during and upon separation of
5 employment, including minimum, regular, and overtimes wages for all hours worked, and meal, rest, and
6 recovery period premium wages, as required pursuant to Labor Code sections 201, 202 and 204.

7 36. Due to the foregoing Labor Code violations, Defendants denied Plaintiff and other
8 aggrieved employees certain rights afforded them under the California Labor Code and IWC Wage Orders.
9 Plaintiff makes these claims against Defendants on behalf of herself and all other aggrieved current and
10 former employees of Defendants in California.

11 **THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT (“PAGA”)**

12 **REPRESENTATIVE ACTION DESIGNATION**

13 37. Plaintiff realleges and incorporates by reference the allegations contained in the paragraphs
14 above, as though fully set forth herein.

15 38. The causes of action alleged herein are appropriately suited for a Labor Code Private
16 Attorneys General Act of 2004 (“PAGA”) action because:

17 a. Pursuant to California Labor Code section 2699(a), any provision of the Labor
18 Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
19 Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees,
20 for a violation of the California Labor Code, may, as an alternative, be recovered through a civil action
21 brought by an aggrieved employee on behalf of himself or herself and all other current or former
22 employees pursuant to the procedures specified in section 2699;

23 b. This action involves allegations of violations of provisions of the California Labor
24 Code that provide or do not provide for a civil penalty to be assessed and collected by the LWDA or any
25 departments, divisions, commissions, boards, agencies or employees;

26 c. Plaintiff is an “aggrieved employee” because she was employed by the alleged
27 violators and had one or more of the alleged violations committed against her;
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1 d. On October 10, 2023, Plaintiff satisfied the procedural requirements of section
2 2699.3 by electronically serving the LWDA and Defendants with notice of the facts and theories to support
3 each violation. A true and correct copy of Plaintiff's notice and proof of service is attached as **Exhibit A**.

4 e. More than 65 days have passed since Plaintiff served notice via Certified Mail to
5 the LWDA and Defendants. Therefore, Plaintiff satisfied all the administrative requirements to pursue
6 civil penalties against Defendants pursuant to Labor Code section 2698, *et seq.*

7 f. Plaintiff files this action pursuant to Labor Code section 2699(a) and (f), on behalf
8 of herself and all other aggrieved employees of Defendants to recover civil penalties, but only those civil
9 penalties which are required to be shared with the LWDA.

10 g. Defendants were Plaintiff's employer or person acting on behalf of Plaintiff's
11 employer, within the meaning of California Labor Code sections 558 and 558.1, who violated or caused
12 to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
13 hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to
14 civil penalties for each underpaid employee, as set forth in Labor Code sections 558 and 558.1, at all
15 relevant times.

16 h. Defendants were Plaintiff's employer or person acting on behalf of Plaintiff's
17 employer either individually or as an officer, agent, or employee of another person, within the meaning of
18 California Labor Code section 1197.1, who paid or caused to be paid to any employee a wage less than
19 the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid
20 employee, and any applicable penalties imposed pursuant to Labor Code section 203.

21 i. Plaintiff seeks to recover all applicable civil penalties under PAGA on behalf of
22 herself and all other aggrieved employees of Defendants in California.

23 **FIRST CAUSE OF ACTION**

24 **PRIVATE ATTORNEYS GENERAL ACT OF 2004 CLAIM FOR CIVIL PENALTIES**
25 (Violation of Labor Code §§ 2698 *et seq.*)

26 (Alleged by Plaintiff on Behalf of All Aggrieved Employees of Defendants Against All Defendants)

27 39. Plaintiff re-alleges and incorporates by reference the allegations contained in the
28 paragraphs above, as though fully set forth herein.

40. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

41. This cause of action involves allegations of violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699 *et seq.*, which, pursuant to Labor Code section 2699.5, provide for a civil penalty to be assessed and collected by the LWDA or recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

42. Defendants employed Plaintiff and Plaintiff had one or more of the alleged violations committed against her. Therefore, Plaintiff is an “aggrieved employee” under PAGA. As such, Plaintiff is properly suited to represent the interests of other aggrieved employees in a PAGA Representative action.

43. Plaintiff seeks to recover civil penalties only pursuant to Labor Code sections 558 and 1197.1, on behalf of herself and other aggrieved employees for Defendants’ violations of the Labor Code, including but not limited to Defendants’ violations of Labor Code sections 201, 202, 204, 223, 226, 226.7, 510, 512, 1194, 1197, 1198, and 2802.

44. For all provisions of the Labor Code for which a civil penalty is not specifically provided, Labor Code section 2699(f) imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

45. Defendants violated Labor Code sections 226.7, 512, and 1198 by failing to provide Plaintiff and aggrieved employees lawfully compliant meal periods and by failing to pay them meal period premium wages for each day a meal period was not provided. Under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code sections 226.7 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

46. Defendants violated Labor Code sections 226.7 and 1198 by failing to authorize and permit Plaintiff and all other aggrieved employees to take duty-free rest periods and by failing to pay them rest period premium wages for each day a rest period was not provided. Under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code sections 226.7 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

47. Defendants violated Labor Code section 226.7 and California Code of Regulation, Title 8, section 3395 by failing to provide Plaintiff and other aggrieved employees with compliant recovery periods when the outdoor temperature at the worksite exceeded 80 degrees Fahrenheit and failing to provide one additional hour of pay at each employees' regular rates of compensation for each workday that recovery periods were not provided.

48. Defendants violated Labor Code § 1198 and the "Seats" section of the applicable IWC Wage Order by failing to provide Plaintiff and aggrieved employees with suitable seats.

49. Defendant violated Labor Code sections 227, 1194, 1198, 1199, and the "Reporting Time Pay" section of the applicable IWC Wage Order by failing to pay Plaintiff and other aggrieved employees the required amount of reporting time pay for the time they reported to work but were not put to work.

50. Defendants violated Labor Code sections 223, 1194, 1197, and 1198 by not paying Plaintiff and other aggrieved employees at least minimum and regular wages for all the time they were suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein. Thus, under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code sections 223, 1194, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

51. Defendants violated Labor Code sections 223, 510, 1194, and 1198 by not paying Plaintiff and other aggrieved employees all overtime wages earned for all the time they were suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein. Plaintiff and, on information and belief, other aggrieved employees were not paid all overtime owed when they worked in excess of eight hours a workday or forty hours in a workweek. Thus, under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial

violation of Labor Code sections 223, 1194, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

52. Under Labor Code section 225.5, Defendants, in addition to, and entirely independent and apart from, any other penalty, are subject to a civil penalty for unlawfully withholding wages due Plaintiff and other aggrieved employees in violation of Labor Code section 223 as follows: (1) for an initial violation, one hundred dollars (\$100.00) for each failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200.00) for each failure to pay each employee.

53. Defendants violated Labor Code sections 201, 202, 203, and 1198 by not paying Plaintiff and aggrieved employees all reporting time, minimum, regular, and overtime wages owed, and all meal, rest, and recovery premium wages owed by the time set forth by law upon their separation of employment, as alleged herein. Thus, under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code sections 201, 202, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

54. Defendants violated Labor Code sections 204 and 1198 by not paying Plaintiff and aggrieved employees all reporting time, minimum, regular, and overtime wages owed, and all meal, rest, and recovery premium wages owed by the time set forth by law during their employment, as alleged herein. Thus, under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code sections 204 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

55. Defendants violated Labor Code sections 226(a), 1174(d), and 1198 by failing to maintain records detailing the start and end times of work shifts and meal periods, and knowingly and intentionally failing to maintain and provide Plaintiff and other aggrieved employees of Defendants with wage statements itemizing accurately all information required by Labor Code section 226(a), as alleged herein, including the total hours worked, all regular hours worked, all overtime hours worked, the applicable hourly rate per hour worked, and the total wages earned. Thus, under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code sections 226(a) and 1198, and \$200 for each aggrieved employee per pay period

1 for each subsequent violation. Alternatively, Labor Code section 226.3 provides for a civil penalty in the
2 amount of \$250 per violation in an initial citation and \$1,000 for each violation in a subsequent citation,
3 for which the employer fails to provide the employee a wage deduction statement or fails to keep the
4 records required in subdivision (a) of section 226.

5 56. Labor Code section 1174.5 provides for a civil penalty of \$500 for any person employing
6 labor who willfully fails to maintain accurate and complete records required by subdivision (d) of section
7 1174.

8 57. Defendants are and were Plaintiff's and aggrieved employees' employers or other person(s)
9 acting either individually or as an officer, agent, or employee of another person(s), who pays or causes to
10 be paid to any employee a wage less than the minimum fixed by an order of the Commission, and, as such,
11 are subject to civil penalties for each underpaid employee pursuant to Labor Code section 1197.1. Labor
12 Code section 1197.1 imposes upon Defendants for each initial violation of Labor Code section 1197 by
13 paying or causing an employee to be paid less than the minimum wage, a civil penalty of \$100.00 for each
14 underpaid employee for each pay period for which the employee is underpaid. Furthermore, Labor Code
15 section 1197.1 imposes upon Defendants for each subsequent violation a civil penalty of \$250.00 for each
16 underpaid employee for each pay period for which the employee was underpaid.

17 58. Defendants are and were Plaintiff's and other aggrieved employees' employers, or persons
18 acting on their behalf, within the meaning of Labor Code section 558, who violated or caused to be
19 violated, a section of Part 2, Chapter 1 of the Labor Code or any provision regulating hours and days of
20 work in any IWC Wage Order and, as such, are subject to civil penalties for each underpaid employee as
21 set forth in Labor Code section 558.

22 59. Pursuant to Labor Code section 558, Defendants are subject to a civil penalty of \$50.00 for
23 an initial violation of Labor Code sections 510 and 512, for each aggrieved employee, for each pay period
24 for which the aggrieved employee was not provided with a timely off-duty 30-minute meal period and all
25 overtime wages for all hours worked, as alleged herein. Furthermore, Labor Code section 558 imposes
26 upon Defendants for each subsequent violation of Labor Code sections 510 and 512 a civil penalty of
27 \$100.00 for each aggrieved employee for each pay period for which the aggrieved employee was not
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1 provided with a timely off-duty 30-minute meal period and all overtime wages for all hours worked, as
2 alleged herein.

3 60. Labor Code section 558 also imposes upon Defendants for each initial violation of the
4 Hours and Days of Work section of the applicable IWC Wage Order a civil penalty of \$50.00 for each
5 aggrieved employee for each pay period for which the aggrieved employee was not provided with a paid
6 uninterrupted 10-minute rest period, as alleged herein. Furthermore, Labor Code section 558 imposes
7 upon Defendants for each subsequent violation of the Hours and Days of Work section of the applicable
8 IWC Wage Order a civil penalty of \$100.00 for each aggrieved employee for each pay period for which
9 the aggrieved employee was not provided with a paid uninterrupted 10-minute rest period, as alleged
10 herein.

11 61. Defendants violated Labor Code section 2802 by failing to reimburse Plaintiff and all
12 aggrieved employees for necessary expenses that they incurred in the discharge of their duties of
13 employment. Thus, under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100
14 for each aggrieved employee per pay period for the initial violation of this section, and \$200 for each
15 aggrieved employee per pay period for each subsequent violation.

16 62. For bringing this action, Plaintiff is additionally entitled to attorney's fees and costs
17 incurred herein.

18 63. Plaintiff seeks to recover civil penalties on behalf of herself and other aggrieved employees
19 for Defendants' violations of the Labor Code, including but not limited to Defendants' violations of Labor
20 Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 558.1,
21 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699 *et seq.*, The exact amount of the
22 applicable penalties is in an amount to be shown according to proof at trial and within the jurisdictional
23 limitations of this Court.

24 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- a. For reasonable attorney fees, cost of suit, and interest to the extent permitted by law, including pursuant to Code of Civil Procedure Section 1021.5 and the Private Attorneys General Act, Labor Code Sections 2698, et seq.;
- b. For civil penalties to the extent permitted by law pursuant to the California Labor Code under the Private Attorneys General Act; and
- c. For an award of such other and further relief as this Court deems proper and just.

Respectfully submitted,

Dated: December 15, 2023

GRAHAMHOLLIS APC

Bv: _____


NORA J. STEINHAGEN
Attorneys for Plaintiff

EXHIBIT A

October 10, 2023

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Erik Dos Santos
edosantos@grahamhollis.com
619.906.4026 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce
Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

Wilhelm, LLC
11990 Heritage Oak Place, Suite 3
Auburn, CA 95603

Wilhelm, LLC
c/o Cogency Global Inc., Agent for Service of
Process
1325 J Street Suite 1550
Sacramento, CA 95814

U.S. Traffic Control LLC
573 Hawthorne Ave
Athen, GA 30606

U.S. Traffic Control, LLC
c/o Cogency Global Inc., Agent for Service of
Process
1325 J Street Suite 1550
Sacramento, CA 95814

Re: Naomi Hudson's Wage and Hour Claims Against Wilhelm, LLC and U.S.
Traffic Control LLC

Dear Labor and Workforce Development Agency and Wilhelm, LLC and U.S. Traffic
Control LLC.:

Please be advised that Naomi Hudson ("Claimant") has retained our firm to
represent her for claims against her former employers Wilhelm, LLC and U.S. Traffic
Control LLC ("the Companies").

Graham S.P. Hollis

Vilmarie Cordero

Hali Anderson

Nathan Reese

Erik Dos Santos

Nora Steinhagen

Alyssa Smith

Allison Schubert

Alex Kuner

Dawn M. Berry

Brisa Martinez

Taylor M. Gee

*Provisionally Licensed Lawyer

This letter shall serve as Claimant's written notice to the Labor and Workforce Development Agency ("LWDA") and the Companies of the alleged Labor Code violations Claimants claim that the Companies committed against them and all other aggrieved employees in California. Claimants provide this notice in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3. Claimants desire to file a civil action to enforce their rights under the Labor Code and seek compensation accordingly.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant also intends to represent all other current and former non-exempt employees who performed work for the Companies in California and who have suffered at least one of the wage and hour violations described herein during the relevant time period (hereinafter collectively "aggrieved employees").

FACTUAL BACKGROUND

The Companies are limited liability companies in California. The Companies operates throughout central California. Claimant worked for the Companies as a flagger throughout Santa Rosa, California and the surrounding areas. Claimant worked for the Companies from January 2022 until she was terminated in July 2023. Claimant was paid an hourly rate of \$29.00. At all times, Claimant was a non-exempt employee and was compensated on an hourly basis.

The Companies denied Claimant and other aggrieved employees in California specific rights afforded to them under the California Labor Code and the IWC Wage Order. For example, the Companies failed to provide them with legally compliant meal and rest periods or pay them meal and rest period premiums, failed to timely pay them all minimum, regular, and overtime wages owed, failed to reimburse for all business expenses, failed to pay for reporting time, failed to provide recovery periods when the temperature in the work area exceeded 80 degrees Fahrenheit, failed to maintain accurate records and issue accurate itemized wage statements, and failed to timely pay all wages due during and upon separation of employment.

The Companies did not provide Claimant and, on information and belief, other aggrieved employees the opportunity to take compliant 30-minute, off-duty meal periods. Rather, the Companies required Claimant and, on information and belief, other aggrieved employees to work through their meal periods, receive less than thirty (30) minute meal periods, take interrupted meal periods, or did not allow them to take meal periods before the end of the fifth hour. For example, Claimant and, on information and belief, other aggrieved employees regularly took their meal periods after the end of the fifth hour of work because they had to work around their schedule and guard rigs and equipment as they were not permitted to leave during that time. Claimant and, on information and belief, other aggrieved employees were also required to remain on-duty as they have to direct traffic at all times and are usually scheduled without any relief of their job duties. Furthermore, the Companies, on information and belief, further did not authorize or permit a second meal period when Claimant, and aggrieved employees worked shifts longer than 10 hours. The Companies will automatically deduct time for a meal period regardless of whether Claimant and, on information and belief, other aggrieved employees took meal periods.

Although Claimant and, on information and belief, other aggrieved employees did not receive legally compliant meal periods, the Companies did not pay Claimant and other aggrieved employees the additional one hour of pay at the employee's regular rate of pay as required under Labor Code section 226.7

and the applicable IWC Wage Order. In fact, the Companies never compensated Claimant and, on information and belief, other aggrieved employees an additional hour of pay at the employee's regular rate of pay for each work period during which a meal period was not provided, as required under California law. As such, the Companies owes Claimant and other aggrieved employees a meal period premium for each work day that Claimant and other aggrieved employees were not provided with a compliant meal period.

For the same reasons as meal breaks, the Companies also did not authorize or permit Claimant and, on information and belief, other aggrieved employees to take ten-minute, uninterrupted rest periods every four hours worked or major fraction thereof at any time during the course of their employment. Despite the fact that Claimant and, on information and belief, other aggrieved employees did not receive off-duty rest periods, the Companies did not pay Claimant the additional one hour pay at the employee's regular rate of pay as required under Labor Code section 226.7 and the applicable IWC Wage Order. In fact, the Companies never compensated Claimant, and on information and belief, other aggrieved employees an additional hour of pay at the employee's regular rate of pay for each work period during which a rest period was not provided every four hours, or major fraction thereof, as required under California law.

Further, Claimant and, on information and belief, other aggrieved employees were not paid all minimum, regular, and overtime wages because the Companies failed to record the actual start and end time of Claimant and, on information and belief, other aggrieved employees' shifts and meal periods. Instead, the Companies had the illegal policy of paying Claimant and, on information and belief, other aggrieved employees, only for their scheduled work hours and auto-deducted time for their meal periods regardless of whether they actually received meal periods. The Companies also alter the time records of Claimant and, on information and belief, other aggrieved employees to change the total number of hours worked for that day to avoid paying overtime. Thus, Claimant and, on information and belief, other aggrieved employees, were not paid all minimum, regular, and overtime wages for all hours worked.

Claimant and, on information and belief, other aggrieved employees are also not paid for reporting time pay. On at least on occasion, Claimant was told to drive 2.5 hours to a job site to perform work. However, once Claimant showed up at the job site, she was informed that she was no longer needed. However, the Companies failed to pay Claimant reporting time pay for this day worked.

The Companies failed to provide Claimant and, on information and belief, other aggrieved employees with compliant recovery periods, as the Companies did not provide them off-duty access to adequate shade when the outdoor temperature at the worksites exceeded 80 degrees Fahrenheit and did not provide cold water, as employees had to provide their own water and are required to work in the street at all times where there is no shade. The Companies never notified Claimant and, on information and belief, other aggrieved employees that they were entitled to recovery periods, nor did the Companies ever offer recovery periods to Claimant and, on information and belief, other aggrieved employees. The Companies also failed to pay Claimant and, on information and belief, other aggrieved employees an additional hour of pay when they were not provided with compliant recovery periods.

The Companies also failed to reimburse Claimant and, on information and belief, other aggrieved employees for all necessary expenses that were incurred in the discharge of their job duties. For example, Claimant and, on information and belief, other aggrieved employees were required to use their own cell phones to perform work duties and clock in and out. But, Claimant and, on information and belief, other aggrieved employees did not receive any reimbursement for this. Additionally, on at least one occasion,

Claimant was required to purchase her own hotel room to stay three nights for a job, but was not reimbursed by the Companies.

The Companies also failed to provide adequate seating and restrooms to Claimant and aggrieved employees. Because employees were required to remain on the street, they did not have access to bathrooms or seating. Often, Claimant would have to go into the forest to use the restroom as the Companies do not provide any form of restrooms.

The Companies further failed to maintain accurate records reflecting all of Claimants' and other aggrieved employees' time worked and wages paid, in violation of California law. For example, the Companies failed to record the actual start and end time of Claimant and, on information and belief, other aggrieved employees' work periods and break periods. In addition, the Companies had the illegal policy of failing to pay Claimant and, on information and belief, other aggrieved employees, for work performed. In addition, the Companies auto-deducted meal period regardless of whether or not the employees had taken a compliant and off-duty meal period.

In addition, the Companies failed to accurately keep all the information required under Labor Code section 226(a). The wage statements issued by the Companies also did not include all the required items provided for in Labor Code section 226. For example, the wage statements issued by the Companies did not include the correct amount of gross and net wages earned, the correct total hours worked by the employee, the applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each applicable hourly rate by the employee as required under Labor Code section 226.

Lastly, as a direct result of the aforementioned Labor Code violations, the Companies did not pay Claimant and, on information and belief, other aggrieved employees all wages due and payable during and upon separation of employment, including minimum, regular, and overtime wages for all hours worked, and meal, rest, and recovery period premium wages, as required pursuant to Labor Code sections 201, 202 and 204.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other aggrieved employees certain rights afforded them under the California Labor Code and IWC Wage Orders. Claimant makes these claims against the Companies on behalf of herself and all other aggrieved current and former employees of the Companies in California.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code sections 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198 and the "Minimum Wages" and "Hours and Days of Work" sections of the Applicable IWC Wage Order)

Labor Code section 1197 states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." Labor Code section 1197.1 provides that, "Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203..." Section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the

maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code section 510 states, “[e]ight hours of labor constitutes a day’s work. 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. 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. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” The “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code section 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

Labor Code section 223 states, “[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.” Labor Code section 225.5 provides that, “...every person who unlawfully withholds wages due any employee in violation of Section ...223 shall be subject to a civil penalty” of \$100 for each initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies failed to pay Claimant and, on information and belief, other aggrieved employees all minimum, regular, and overtime wages, as required by law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

**FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND
AUTHORIZE AND PERMIT REST PERIODS**

(Labor Code sections 226.7, 512, 558, 1198 and the “Meal Periods” and
“Rest Periods” sections of the Applicable IWC Wage Order)

Labor Code section 226.7(b) states, “[a]n employer shall not require an employee to work during a meal or rest . . . period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission...” Labor Code section 226.7(c) states, “[i]f an employer fails to provide an employee a meal or rest . . . period in accordance with a state law... 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.”

Labor Code section 512(a) states, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30

minutes” and “[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

The “Meal Periods” section of the applicable IWC Wage Order states, “[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.” It further states, “[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived.” Furthermore, “[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.”

The “Meal Periods” section of the applicable IWC Wage Order also states, “[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to and complies with Labor Code Section 512.

The “Rest Periods” section of the applicable IWC Wage Order states, “[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof.” Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.” The Wage Order further states, “[r]est periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the product or process of the work. However, the employer shall make up the missed rest period within the same workday or compensate the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay within the same period.”

Labor Code section 1198 states, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

As set forth above, the Companies failed to provide Claimant and, on information and belief, other aggrieved employees with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work, did not authorize or permit a second off-duty meal periods for shifts in excess for 10 hours, and did not authorize and permit Claimant and, on information and belief, other aggrieved employees to take legally compliant rest periods, as required by California law. The

Companies failed to pay Claimant and, on information and belief, other aggrieved employees one-hour of premium wages for each day a compliant meal period was not provided and one-hour of premium wages for each day a compliant rest period was not authorized or permitted. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO REIMBURSE FOR BUSINESS EXPENSES
(Labor Code section 2802 and the "Uniforms and Equipment" section
of the Applicable IWC Wage Order)

Labor Code section 2802(a) provides in pertinent part, "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

Labor Code section 2802(b) states, "[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss." Accordingly, Claimant will request that he receive interest on the applicable amount.

Furthermore, Labor Code section 2802(c) states, "[f]or purposes of this section, the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section." Consequently, Claimant will also request reimbursement of the attorney's fees incurred in pursuing this matter.

As set forth above, the Companies failed to reimburse Claimant and, on information and belief, other aggrieved employees all necessary business expenses. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO PROVIDE RECOVERY PERIODS
(Labor Code section 226.7 and California Code of Regulations, Title 8, section 3395)

Labor Code section 226.7(a) states that, "'recovery period' means a cooldown period afforded an employee to prevent heat illness." Labor Code section 226.7(b) states that, "[a]n employer shall not require an employee to work during a ... recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational and Health Standards Board, or the Division of Occupational Safety and Health." Labor Code section 226.7(c) states that "[i]f an employer fails to provide an employee a ... recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the ... recovery period is not provided."

California Code of Regulations, Title 8, Section 3395(d)(1) provides that, “[s]hade shall be present when the temperature exceeds 80 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling ... [t]he shade shall be located as close as practicable to the areas where the employees are working.”

As set forth above, the Companies failed to provide Claimant and, on information and belief, other aggrieved employees with compliant recovery periods because it did not provide them off-duty access to shade when the outdoor temperature at the worksite exceeded 80 degrees Fahrenheit. The Companies also failed to pay Claimant and, on information and belief, other aggrieved employees an additional hour of pay when they were not provided with compliant recovery periods. Claimant will pursue all available remedies for the Companies’ violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO PAY REPORTING TIME PAY

(Labor Code § § 1194, 1198, 1199, and the “Reporting Time Pay” section of the IWC Wage Order No. 5-2001)

The “Reporting Time Pay” section of IWC Wage Order No. 5-2001 states:

“[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

Labor Code § 1199 makes it unlawful for any employer “or other person acting either individually or as an officer, agent, or employee of another person” to require or cause “any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission,” pay or cause “to be paid to any employee a wage less than the minimum fixed by an order of the commission” or violate or refuse or neglect “to comply with any provision of this chapter or any order or ruling of the commission.”

As set forth above, the Company failed to pay Claimants and, on information and belief, other aggrieved employees the required amount of reporting time pay for the time they reported to work but were not put to work, as required by California law. Claimants will pursue all available remedies for the Company’s violations on behalf of herself and other aggrieved employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code sections 1174, 1174.5, 1198, and the “Records” section of the Applicable IWC Wage Order)

Labor Code section 1174 states, “[e]very person employing labor in this state shall... [k]eep, 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.”

The “Records” section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period.

Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d).

As set forth above, the Companies violated these requirements by failing to accurately record employee hours worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the applicable rates of pay, the total hours worked during the pay period, and the total wages paid each payroll period. Claimant will pursue all available remedies for the Companies’ violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code sections 226, 226.3, 246, 248.5, and 1198)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code section 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code section 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code section 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code section 246(i) states that “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Labor Code section 248.5(e) provides that “any person or entity enforcing this article on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and reasonable attorneys’ fees and costs.”

The Companies failed to provide Claimant and, on information and belief, other aggrieved employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements issued did not include the correct total regular hours worked, the correct amount of gross and net wages earned, the correct overtime hours worked, and all applicable hourly rates

and the corresponding number of hours worked at each hourly rate, as required under Labor Code section 226. The Companies also failed to include the accrued sick hours on Claimant and, on information and belief, aggrieved employees' wage statements as required by Labor Code section 246(i). Claimant will pursue all available remedies for the Companies' violations on behalf of himself and other aggrieved employees to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE

(Labor Code sections 201, 202, 203, 204, 210, 1194, 1194.2, 1198, and the
"Minimum Wages" section of the Applicable IWC Wage Order)

Labor Code section 204(a) states in pertinent part, "[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Furthermore, Labor Code section 204(b)(1) states, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." The requirements of Labor Code section 204 are "deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Labor Code section 204(d). Labor Code section 210 provides that, "every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation. The "Minimum Wages" section of the applicable IWC Wage Order also states that "[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise."

Labor Code section 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code section 202 states, in pertinent part, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 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."

Labor Code section 203(a) states, in pertinent part, "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 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 therefore is commenced; but the wages shall not continue for more than 30 days."

Here, the Companies routinely failed to pay Claimant and, on information and belief, other aggrieved employees all overtime wages owed within a timely manner. The Companies routinely paid Claimant and, on information and belief, other aggrieved employees their overtime wages months after the overtime wages had accrued.

As set forth above, the Companies further violated this Labor Code section by not paying to Claimant and, on information and belief, other aggrieved employees all minimum, regular, and overtime wages, as well as meal, rest, and recovery period premium wages, within the required time during and upon

separation of their employment. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owes waiting time penalties to Claimant and, on information and belief, other aggrieved employees, which they have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer or any person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558.1) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: "[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Labor Code section 558.1(a) states, "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." This includes the owners, officers, directors, or managing agents of the employer. Labor Code section 558.1(b).

Similarly, Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: "(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Companies underpaid Claimant and, on information and belief, aggrieved employees and violated the Labor Code and the applicable IWC Wage Order by failing to pay them all regular, minimum, and overtime wages, meal, rest, and recovery period premium wages, and business expense reimbursements, as required under Labor Code sections 203, 226, 226.7, 510, 512, 1194, 1197, 1198, 2802, and the applicable sections of the applicable IWC Wage Order. As a result, the Companies is liable for civil penalties under Labor Code sections 558, 558.1, and 1197.1. Claimant will pursue all

available remedies for the Companies' violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES, AND PENALTIES

(Labor Code sections 210, 218.5, 218.6, 225.5, 226(e),
558, 1194, 1194.2, 1197.1, 2802, and 2699, et seq.)

Labor Code sections 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2699, et seq., among others, give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Pursuant to Labor Code section 2699, et seq., an aggrieved employee is entitled to 25% of the penalty assessment, which is \$100 for the first violation and \$200 for each subsequent violation. Accordingly, the Companies is liable for these items in addition to the unpaid wages. Claimant has already incurred actual damages, costs and attorney's fees and they will continue to incur costs as a result of the Companies' unlawful actions. Claimant will pursue all available remedies, including those provided by PAGA, for these violations on behalf of himself and other aggrieved employees.

CONCLUSION

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional compensation owed to her or other losses incurred by her or by any other aggrieved employee of the Companies, she reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action in his complaint.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Erik Dos Santos', with a stylized flourish at the end.

Erik Dos Santos

Grahamhollis APC
3555 5TH AVE STE 200
SAN DIEGO CA 92103-5057

USPS CERTIFIED MAIL



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U.S. Traffic Control LLC
573 HAWTHORNE AVE
ATHENS GA 30606-2505



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11923275



stamps
endicia

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Grahamhollis APC
3555 5TH AVE STE 200
SAN DIEGO CA 92103-5057

USPS CERTIFIED MAIL



9407 1118 9876 5492 4056 42

Wilhelm, LLC
Wilhelm, LLC
11990 HERITAGE OAK PL STE 3
AUBURN CA 95603-2405



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FIRST-CLASS

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9407 1118 9876 5492 4024 67

Wilhelm, LLC
Cogency Global Inc., AFSOP
1325 J ST STE 1550
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9407 1118 9876 5492 4078 82

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Cogency Global Inc. AFSOP
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Reference	EADS VC AEB GS
USPS #	9407111898765492405642
USPS Mail Class	Certified with Electronic Delivery Confirmation
USPS Status	Your item was delivered to the front desk, reception area, or mail room at 12:22 pm on October 13, 2023 in AUBURN, CA 95603.
USPS History	Departed USPS Regional Destination Facility, 10/13/2023, 12:17 am, SACRAMENTO CA DISTRIBUTION CENTER Arrived at USPS Regional Destination Facility, 10/12/2023, 1:56 pm, SACRAMENTO CA DISTRIBUTION CENTER Arrived at USPS Regional Origin Facility, 10/11/2023, 7:47 pm, SAN DIEGO CA DISTRIBUTION CENTER Accepted at USPS Origin Facility, October 11, 2023, 6:32 pm, SAN DIEGO, CA 92103 Shipping Label Created, USPS Awaiting Item, 10/11/2023, 11:07 am, SAN DIEGO, CA 92103

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Cogency Global Inc., AFSOP
1325 J ST STE 1550
SACRAMENTO CA 95814-2976



Reference	EADS VC AEB GS
USPS #	9407111898765492402467
USPS Mail Class	Certified with Electronic Delivery Confirmation
USPS Status	Your item was delivered to the front desk, reception area, or mail room at 10:43 am on October 13, 2023 in SACRAMENTO, CA 95814.
USPS History	Departed USPS Regional Destination Facility, 10/12/2023, 5:16 pm, SACRAMENTO CA DISTRIBUTION CENTER Arrived at USPS Regional Destination Facility, 10/12/2023, 1:56 pm, SACRAMENTO CA DISTRIBUTION CENTER Arrived at USPS Regional Origin Facility, 10/11/2023, 7:47 pm, SAN DIEGO CA DISTRIBUTION CENTER Accepted at USPS Origin Facility, October 11, 2023, 6:32 pm, SAN DIEGO, CA 92103 Shipping Label Created, USPS Awaiting Item, 10/11/2023, 11:10 am, SAN DIEGO, CA 92103

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Cogency Global Inc. AFSOP
1325 J ST STE 1550
SACRAMENTO CA 95814-2976



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FIRST-CLASS
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Reference	EADS VC AEB GS
USPS #	9407111898765492407882
USPS Mail Class	Certified with Electronic Delivery Confirmation
USPS Status	Your item was delivered to the front desk, reception area, or mail room at 10:43 am on October 13, 2023 in SACRAMENTO, CA 95814.
USPS History	Departed USPS Regional Destination Facility, 10/12/2023, 5:16 pm, SACRAMENTO CA DISTRIBUTION CENTER Arrived at USPS Regional Destination Facility, 10/12/2023, 1:56 pm, SACRAMENTO CA DISTRIBUTION CENTER Arrived at USPS Regional Origin Facility, 10/11/2023, 7:47 pm, SAN DIEGO CA DISTRIBUTION CENTER Accepted at USPS Origin Facility, October 11, 2023, 6:32 pm, SAN DIEGO, CA 92103 Shipping Label Created, USPS Awaiting Item, 10/11/2023, 11:18 am, SAN DIEGO, CA 92103

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U.S. Traffic Control LLC
U.S. Traffic Control LLC
573 HAWTHORNE AVE
ATHENS GA 30606-2505



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Reference	EADS VC AEB GS
USPS #	9407111898765492408605
USPS Mail Class	Certified with Electronic Delivery Confirmation
USPS Status	Your item was delivered to an individual at the address at 2:46 pm on October 16, 2023 in ATHENS, GA 30606.
USPS History	Departed USPS Regional Destination Facility, 10/15/2023, 1:05 pm, ATLANTA NORTH METRO DISTRIBUTION CENTER Arrived at USPS Regional Destination Facility, 10/15/2023, 11:27 am, ATLANTA NORTH METRO DISTRIBUTION CENTER In Transit to Next Facility, 10/14/2023 In Transit to Next Facility, 10/13/2023 In Transit to Next Facility, 10/12/2023 Arrived at USPS Regional Origin Facility, 10/11/2023, 7:45 pm, SAN DIEGO CA DISTRIBUTION CENTER Accepted at USPS Origin Facility, October 11, 2023, 6:30 pm, SAN DIEGO, CA 92103 Shipping Label Created, USPS Awaiting Item, 10/11/2023, 11:15 am, SAN DIEGO, CA 92103

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