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David W. Slayton,
Executive Officer/Clerk of Court,
By R. Perez, Deputy Clerk

6 Attorneys for Plaintiff DAVID VENTURA

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

9 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10 DAVID VENTURA, an aggrieved employee
and on behalf of other aggrieved employees;

12 Plaintiff,

13 vs.

14 ARRIAGA USA, INC., a California
corporation; and DOES 1 through 50,

16 Defendants.

Case No.: 23STCV30139

**REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATION OF THE
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §§ 2698,
et seq.)**

18 Plaintiff DAVID VENTURA ("Plaintiff"), on behalf of himself as an aggrieved employee,
19 the State of California, and other aggrieved employees, hereby brings this Representative Action
20 Complaint ("Complaint") against Defendants ARRIAGA USA, INC., a California corporation, and
21 DOES 1 to 50 inclusive (collectively "Defendants"), and on information and belief alleges as
22 follows:

23 **JURISDICTION AND VENUE**

24 1. Plaintiff brings this Complaint for recovery of civil penalties under the California
25 Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* ("PAGA"), for Defendants'
26 violations of the Labor Code and Industrial Welfare Commission ("IWC") Wage Orders 1-2001 and
27 7-2001 ("Wage Orders"), including Labor Code §§ 201-204, 226, 226.7, 246, 432, 510, 512, 516,
28 558, 558.1, 1182.12, 1174, 1194, 1194.2, 1197, 1198, 1198.5, 2802. This Court has jurisdiction

over Defendants' violations of the Labor Code because the amount in controversy exceeds \$25,000.

2. Venue is proper in this judicial district because Defendants maintain offices, have agents, and/or transact business in the State of California, including Los Angeles County, and some of the acts and omissions complained of herein occurred in Los Angeles County. Furthermore, Plaintiff was employed by Defendants within Los Angeles County.

PARTIES

3. Plaintiff is, and at all times relevant herein was, an individual over the age of eighteen (18) and is a California resident. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of herein and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7, 246, 432, 510, 512, 516, 558, 558.1, 1182.12, 1174, 1194, 1194.2, 1197, 1198, 1198.5, 2802, and Wage Orders.

4. Plaintiff is informed and believes, and based thereon alleges, that during the applicable statute of limitations for each cause of action pled herein and continuing to the present, Defendants engaged in and continue to engage in business, and employed Plaintiff and other, similarly-situated non-exempt employees within 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. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, was responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and aggrieved employees to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. 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 Defendant; and furthermore,

1 Defendants, and each of them, were the agents, servants, and employees of each of the other
2 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
3 within the course and scope of said agency and employment.

4 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
5 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
6 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
7 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
8 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
9 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

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

13 9. At all times herein mentioned, the acts and omissions of various Defendants, and
14 each of them, concurred and contributed to the various acts and omissions of each and all of the
15 other Defendants in proximately causing the injuries and damages as herein alleged.

16 **FACTUAL ALLEGATIONS**

17 10. Defendants owns, operates, or otherwise manages a stone slap fabrication and retail
18 business in North Hollywood, California. Defendants employed Plaintiff as a forklift operator for
19 approximately six years. Plaintiff's employment with Defendants terminated on or around
20 September 1, 2023.

21 11. Labor Code §§ 1194, 1197, and Wage Orders, § 4 entitle employees to receive no
22 less than the minimum wage fixed by the comission or by any applicable state or local law for all
23 hours worked. Labor Code §§ 510, 1198, and Wage Orders, § 3 provide that non-exempt employees
24 are entitled to all overtime wages at the regular rate of pay. During the relevant time period,
25 Defendants' timekeeping and/or payroll policies and practices resulted in Plaintiff and other
26 aggrieved employees not being compensated for all hours actually worked. Plaintiff and other
27 aggrieved employees regularly worked more than eight hours in a workday or 40 hours in a
28 workweek. Upon information and belief, Defendants required Plaintiff and other aggrieved

1 employees to perform work before their scheduled shifts, after their scheduled shifts, and/or during
2 off-the-clock meal breaks, and failed to compensate employees for this time. As a result, Plaintiff
3 and other aggrieved employees were not compensated for all earned minimum and overtime wages.

4 12. Labor Code §§ 226.7, 512, and Wage Orders, § 11 require employers to provide non-
5 exempt employees with compliant meal periods or pay premiums at the regular rate of
6 compensation. During the relevant time period, Defendants failed to provide Plaintiff and other
7 aggrieved employees with all legally compliant meal periods due to Defendants' meal period
8 policies/practices, which have frequently resulted in late (commencing after the fifth hour of work),
9 short (less than 30 minutes), and/or missed meal periods. Upon information and belief, Plaintiff and
10 other aggrieved employees were not able to take their legally compliant meal breaks due to work
11 demands imposed by Defendants. Upon information and belief, Defendants do not keep accurate
12 records of Plaintiff's and other aggrieved employees' hours worked, including accurate time records
13 showing when employees take their meal periods. On those occasions when Plaintiff and other
14 aggrieved employees were not provided with all legally compliant meal periods to which they were
15 entitled, Defendants failed to compensate Plaintiff and other non-exempt employees with the
16 required meal period premium(s) for each workday there was a meal period violation as mandated
17 by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the
18 payment of meal period premium payments as required by Labor Code § 226.7 in the event that a
19 legally compliant meal period was not provided to their employees.

20 13. Labor Code §§ 226.7 and Wage Orders, § 12 require employers to authorize and
21 permit non-exempt employees to take compliant rest periods or pay premiums at the regular rate of
22 compensation. During the relevant time period, Plaintiff and other aggrieved employees were not
23 authorized and permitted to take all required rest periods due to Defendants' unlawful rest period
24 policies/practices, which failed to authorize and permit a net 10-minute rest period for every four
25 hours worked, or major fraction thereof. Plaintiff and other aggrieved employees were not able to
26 take their legally compliant rest breaks due to work demands imposed by Defendants. On those
27 occasions when Plaintiff and other aggrieved employees were not authorized and permitted to take
28 all legally compliant rest periods to which they were entitled, Defendants failed to compensate them

1 with the required rest period premium(s) for each workday there was a rest period violation as
2 mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no
3 mechanism for the payment of rest period premium payments as required by Labor Code § 226.7, in
4 the event that a legally compliant rest period was not authorized and permitted to their non-exempt
5 employees.

6 14. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
7 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
8 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
9 statements to Plaintiff and other aggrieved employees. As a further result of Defendants' failure to
10 pay all minimum and overtime wages, sick leave wages, and meal and rest period premium wages,
11 Defendants failed to timely pay all final wages to Plaintiff and other aggrieved employees upon
12 their separation of employment from Defendants.

13 15. Additionally, Defendants required Plaintiff and other aggrieved employees to to use
14 their personal cellphones daily to clock in and out of their shifts and meal periods and take and
15 upload photos of their location on premises but only reimbursed them \$2.71 per month, which failed
16 to fully reimburse them for their personal cellphone usage.

17 16. Labor Code section 1198 provides: "The employment of any employee ... under
18 conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." Section 15 of the Wage
19 Orders provide: "(A) The temperature maintained in each work area shall provide reasonable
20 comfort consistent with industry-wide standards for the nature of the process and the work
21 performed. (B) If excessive heat or humidity is created by the work process, the employer shall take
22 all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
23 comfort. Where the nature of the employment requires a temperature of less than 60° F, a heated
24 room shall be provided to which employees may retire for warmth, and such room shall be
25 maintained at not less than 68° F. (C) A temperature of not less than 68° F shall be maintained in
26 the toilet rooms, resting rooms, and change rooms during hours of use. (D) Federal and State energy
27 guidelines shall prevail over any conflicting provision of this section." California law requires an
28 employer to endeavor to provide a safe and healthy workplace. (Cal. Code Regs., tit. 8, §3203.)

1 Labor Code section 6720 required the California Division of Occupational Safety and Health
2 (“Cal/OSHA”) to propose an indoor heat illness standard by January 1,2019. (Lab. Code, § 6720.)
3 Cal/OSHA’s draft standard applies its proposed regulations to “all indoor work areas where the
4 temperature equals or exceeds 82 degrees Fahrenheit when employees are present.” During the
5 relevant time period, Arriaga owns, operates, or otherwise manages stone slab fabrication and
6 showrooms in North Hollywood, California. Arriaga failed to provide Plaintiff and other aggrieved
7 employees with reasonable comfort by maintaining the indoor temperature within the range of
8 industry standards by, inter alia, providing adequate heating, air conditioning, and/or ventilation and
9 failed to maintain a temperature of not less than 68° F in toilet rooms and breakrooms for Plaintiff
10 and other aggrieved employees.

11 17. On or about October 4, 2023, Plaintiff notified Defendants via certified mail, and
12 notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of
13 Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties
14 under Labor Code § 2698, *et seq.* with respect to the violations of the Labor Code identified in the
15 preceding paragraph. Now that 33 days and 65 days have passed from Plaintiff notifying
16 Defendants and the LWDA of these violations, Defendants have not cured any curable violations,
17 and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has
18 exhausted administrative requirements for bringing a claim under the Private Attorneys General Act
19 with respect to these violations.

20 **FIRST CAUSE OF ACTION**

21 **PRIVATE ATTORNEYS GENERAL ACT**

22 **(Against All Defendants)**

23 18. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
24 fully set forth herein.

25 19. Plaintiff, an “aggrieved employee” within the meaning of Labor Code §§ 2698, *et*
26 *seq.*, acting on behalf of himself and other aggrieved employees (collectively, “Aggrieved
27 Employees”), brings this representative action against Defendants to recover the civil penalties due
28 to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant

1 to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
2 violation for each failure to pay each employee and \$200 for each subsequent violation or willful or
3 intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each
4 employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and
5 \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3)
6 \$100 for each initial violation and \$250 for each subsequent violation pursuant to Labor Code §
7 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for each
8 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to
9 Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as
10 waiting time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and
11 \$200 for each subsequent violation per employee per pay period for those violations of the Labor
12 Code for which no civil penalty is specifically provided, based on the following Labor Code
13 violations:

- 14 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
15 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 16 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
17 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 18 c. Failing to provide all legally required meal periods, and failure to pay meal period
19 premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor
20 Code §§ 226.7, 512, 558, and 1198;
- 21 d. Failing to authorize and permit all legally required rest periods, and failure to pay
22 rest period premium wages, to Aggrieved Employees at the regular rate of compensation in
23 violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 24 e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage
25 statements in violation of Labor Code § 226;
- 26 f. Failing to timely pay all final wages and compensation earned by Aggrieved
27 Employees at the time of separation in violation of Labor Code §§ 201-202;

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g. Failure to reimburse Aggrieved Employees for all necessary business expenses in violation of Labor Code § 2802;

h. Violating Labor Code § 1198 and the Wage Order regulations regarding temperature in indoor workspaces;

i. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and

j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

20. Plaintiff has incurred attorneys' fees and costs, which Plaintiff is entitled to receive under California Labor Code § 2699(g).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. Upon the First Cause of Action, for civil penalties due to Plaintiff, 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 for each subsequent violation or willful or intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$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; (5) pursuant to Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided;

/ / /

1 2. On all causes of action, for attorneys' fees and costs as provided by Labor Code §
2 2699(g) and Code of Civil Procedure § 1021.5; and

3 3. For such other and further relief, the Court may deem just and proper.
4

5 DATED: December 8, 2023

JUSTICE FOR WORKERS, P.C.

6
7 By: 

8 Young K. Park

9 William C. Sung

10 Attorneys for Plaintiff DAVID VENTURA
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