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XESAR MARTINEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO
(UNLIMITED JURISDICTION)

XESAR MARTINEZ, as an “aggrieved
employee” on behalf of himself and other
similarly situated “aggrieved employees”
under the Labor Code Private Attorneys
General Act of 2004,

Plaintiff,

vs.

MORGAN TIRE OF SACRAMENTO, INC.,
a California corporation, dba MTS
COMMERCIAL TIRE; and DOES 1 to 25,
inclusive,

Defendants.

Case No. **26CV022466**

**COMPLAINT FOR VIOLATIONS
OF THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

1 Plaintiff, XESAR MARTINEZ (hereafter “Plaintiff”), on behalf of himself, the State of
2 California, and the other Aggrieved Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action under the Labor Code Private Attorneys
5 General Act of 2004, Labor Code § 2698, et seq. (“PAGA”), based on alleged violations of the
6 California Labor Code and Industrial Welfare Commission Wage Order No. 9-2001 (hereafter
7 “the Wage Order”), against Defendants MORGAN TIRE OF SACRAMENTO, INC. dba MTS
8 COMMERCIAL TIRE, and DOES 1 to 25, inclusive (collectively “MORGAN TIRE” or
9 “Defendants”).

10 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
11 him, the State of California, and the Aggrieved Employees (defined below), for civil penalties
12 and other related relief. These claims are based on Defendants’ failures to: 1) pay all wages,
13 including minimum, regular, and overtime wages earned for all hours worked at the correct rates
14 of pay; 2) provide meal periods or pay correctly-calculated premium wages in lieu thereof; 3)
15 authorize and permit rest periods or pay correctly-calculated premium wages in lieu thereof; 4)
16 indemnify for business expenses; 5) issue only accurate and complete itemized wage statements;
17 6) pay paid sick leave at the correct rate of pay and provide written notice of available paid sick
18 leave; 7) timely pay wages during employment; 8) timely pay wages upon separation from
19 employment; and 9) maintain accurate employment records. Accordingly, Plaintiff now seeks to
20 recover civil penalties and related relief through this representative action.

21 **JURISDICTION AND VENUE**

22 3. Jurisdiction and Venue are proper in this Court and this action is properly filed in
23 the County of Sacramento in this judicial district because Defendant MORGAN TIRE OF
24 SACRAMENTO, INC. is a California corporation whose principal place of business is located at
25 1500 Auburn Blvd., Sacramento, California 95815, because Defendants do business in
26 Sacramento County, and because Defendants’ obligations and liabilities to Plaintiff and the
27 Aggrieved Employees arise therein. Furthermore, the amount in controversy exceeds the
28 jurisdictional minimum of this Court.

THE PARTIES

4. Plaintiff XESAR MARTINEZ is a resident of California.

5. Defendant MORGAN TIRE OF SACRAMENTO, INC., doing business as MTS COMMERCIAL TIRE, is and was a California corporation, with its principal place of business at 1500 Auburn Blvd., Sacramento, California 95815, and which employed Plaintiff. As such, it is a citizen of California based on Plaintiff's information and belief.

6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein of the Defendants sued as DOES 1-25, inclusive, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

7. The "Aggrieved Employees" are all individuals the Defendants have employed in California as hourly, non-exempt employees, during the period beginning one year before Plaintiff's notice of July 13, 2026 to the California Labor and Workforce Development Agency ("LWDA") and ending on the date judgment is entered (the "PAGA Period").

8. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters or employers of the remaining defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

9. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved Employees in accordance with applicable California labor laws as alleged herein.

10. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other

1 defendants, and that said acts and failures to act were within the course and scope of said agency,
2 employment, and/or direction and control.

3 **FACTUAL ALLEGATIONS**

4 11. Wage Order 9-2001 applies to “all persons employed in the transportation industry
5 whether paid on a time, piece rate, commission, or other basis.” § 1. The Wage Order defines the
6 “transportation industry” to mean “any industry, business, or establishment operated for the
7 purpose of conveying persons or property from one place to another whether by rail, highway,
8 air, or water, and all operations and services in connection therewith; and includes storing or
9 warehousing of goods or property, and the repairing, parking, rental, maintenance, or cleaning of
10 vehicles.” § 2. At all relevant times during the applicable limitations period, MORGAN TIRE
11 engaged in the business of commercial tire sales and service, including the repair, servicing,
12 maintenance, and cleaning of tires and vehicles, and Plaintiff and the Aggrieved Employees
13 worked for MORGAN TIRE as tire technicians and in similar non-exempt occupations.
14 Accordingly, Plaintiff and the Aggrieved Employees are entitled to the protections provided under
15 the Wage Order.

16 12. MORGAN TIRE first began to employ Plaintiff on or about January 14, 2025 as
17 a Tire Technician at its facility located at 799 Fremont Ave., San Leandro, California 94577.
18 Plaintiff’s duties consisted primarily of repairing and cleaning commercial tires. Plaintiff
19 generally worked five days per week, Monday through Friday, from approximately 8:00 a.m. to
20 4:30 p.m. Plaintiff’s employment ended on or about June 11, 2026, when MORGAN TIRE
21 terminated him.

22 13. At all relevant times, MORGAN TIRE issued wages to Plaintiff and all of the other
23 Aggrieved Employees on a semi-monthly basis and paid them by the hour. Plaintiff’s rate of pay
24 was \$22.00 per hour at hire and was increased to \$23.00 per hour on or about June 11, 2025.
25 Plaintiff also received non-discretionary bonus compensation, including a bonus of \$750.00 paid
26 by separate manual check on or about December 30, 2025. At all relevant times, MORGAN TIRE
27 classified Plaintiff and all of the other Aggrieved Employees as non-exempt employees entitled
28 to the protections of the Labor Code and the Wage Order.

1 14. MORGAN TIRE failed to pay Plaintiff and the other Aggrieved Employees for all
2 time worked or subject to its control. Plaintiff performed work before clocking in for the start of
3 his shift. He was directed by the owner's son to assist with work tasks before he was permitted to
4 clock in, which took approximately five minutes on each such occasion. Plaintiff also performed
5 work after clocking out at the end of his shift, typically five to ten minutes, when he was asked to
6 finish a task or assist a coworker. In addition, MORGAN TIRE's managers, owners, the owner's
7 son, and other employees called and sent text messages to Plaintiff on his personal cellular
8 telephone regarding work matters, including orders, tasks, and scheduling, both during and
9 outside of his scheduled shifts. MORGAN TIRE did not compensate Plaintiff or the other
10 Aggrieved Employees for this off-the-clock work. In addition, to the extent Plaintiff and the other
11 Aggrieved Employees worked through their meal periods and those meal periods were
12 interrupted, they were not compensated for that time, which would be akin to a minimum wage
13 violation.

14 15. MORGAN TIRE failed to pay Plaintiff and the Aggrieved Employees properly-
15 calculated overtime wages. MORGAN TIRE did not record or include the off-the-clock time
16 described above in employees' hours worked, and therefore did not pay overtime on all overtime
17 hours actually worked. Separately, MORGAN TIRE did not factor non-discretionary incentive
18 and bonus payments into employees' regular rate of pay for purposes of calculating the correct
19 overtime rate of pay. MORGAN TIRE's own payroll records reflect that on the check dated
20 December 30, 2025, MORGAN TIRE paid Plaintiff a \$750.00 bonus and, on that same check,
21 paid 2.93 overtime hours at \$34.50 per hour, which is exactly one and one-half times Plaintiff's
22 \$23.00 base hourly rate and reflects no uplift whatsoever for the bonus. MORGAN TIRE issued
23 no retroactive true-up of overtime wages in any subsequent pay period. In addition, non-
24 discretionary bonus and incentive payments were not factored into the correct sick pay wages or
25 into meal and rest period premium pay. (*See Ferra v. Loews Hollywood Hotel, LLC* (2021) 11
26 Cal.5th 858, 863; *Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542.)

27 16. MORGAN TIRE failed to provide all compliant meal periods and to authorize and
28 permit all compliant rest periods to which Plaintiff and the other Aggrieved Employees were

1 entitled. Plaintiff and the other Aggrieved Employees were entitled to take off-duty, uninterrupted
2 30-minute meal periods before the fifth and tenth hours of work and to take uninterrupted 10-
3 minute rest periods for every four hours or major fraction thereof worked. Plaintiff was not always
4 able to take a timely meal period before the end of his fifth hour of work; despite clocking in at
5 8:00 a.m., he began his meal period as late as approximately 2:30 p.m. At times, Plaintiff missed
6 his meal period entirely because he was directed to perform a task instead. When Plaintiff did
7 take his meal and rest periods, he was frequently interrupted by MORGAN TIRE's manager,
8 Alberto Toledano, and by the owner's son, who approached him to assign additional tasks, give
9 him instructions for later, or ask work-related questions. As a result, Plaintiff and the other
10 Aggrieved Employees were not relieved of all duty during their meal and rest periods. The culture
11 as well as the policies and procedures of MORGAN TIRE did not lend itself to employees
12 receiving compliant meal and rest periods wherein they were relieved of all work duties.
13 MORGAN TIRE did not pay premium wages for these meal and rest period violations.
14 MORGAN TIRE's payroll records for the entirety of Plaintiff's employment, from January 2025
15 through his termination in June 2026, contain no meal period premium and no rest period
16 premium line item of any kind.

17 17. MORGAN TIRE failed to reimburse Plaintiff and the other Aggrieved Employees
18 for business expenses they incurred in direct consequence of the discharge of their duties.
19 MORGAN TIRE required Plaintiff and the Aggrieved Employees to purchase and supply their
20 own personal protective equipment and tools necessary to perform their job duties, including work
21 gloves, steel-toe boots, and cloths used to clean tires. MORGAN TIRE also required Plaintiff and
22 the Aggrieved Employees to use their own personal mobile telephones to send and receive work-
23 related calls and text messages, yet did not provide company telephones or reimburse them for
24 these expenses. MORGAN TIRE further directed Plaintiff to use his personal vehicle for the
25 company's benefit, including to transport a coworker to work, and did not reimburse him for
26 mileage or vehicle expenses. Plaintiff's hourly rate of pay was at all times less than two times the
27 applicable California minimum wage, and MORGAN TIRE was therefore required under Section
28 9(B) of the Wage Order to provide and maintain the tools and equipment required to perform the

1 job. Accordingly, MORGAN TIRE was in violation of California Labor Code sections 2800 and
2 2802 and Section 9 of the Wage Order.

3 18. MORGAN TIRE failed to pay its employees all wages due to them within any
4 time period specified by California Labor Code section 204, including the minimum and overtime
5 wages described above as well as meal and rest period premiums. In addition, Plaintiff and the
6 Aggrieved Employees did not timely receive their itemized wage statements.

7 19. MORGAN TIRE did not provide Plaintiff and the other Aggrieved Employees
8 accurate, itemized wage statements in violation of Labor Code section 226. Wage statements must
9 include all hours worked, overtime hours worked, all applicable hourly rates and the
10 corresponding number of hours worked at each rate, the correct legal name and address of the
11 employer entity, gross wages earned, all deductions, net wages earned, the inclusive dates of the
12 pay period, and the employee identification number or last four digits of the social security
13 number, among other items. Lab. Code § 226(a). Because MORGAN TIRE did not record or pay
14 for off-the-clock work, did not pay meal and rest period premiums, and did not calculate overtime
15 at the correct regular rate of pay, the wage statements issued to Plaintiff and the Aggrieved
16 Employees did not accurately reflect total hours worked, all applicable hourly rates and the
17 corresponding hours worked at each rate, or gross and net wages earned. In addition, the wage
18 statements MORGAN TIRE issued to Plaintiff did not state the amount of paid sick leave
19 available to him. MORGAN TIRE's failure to maintain accurate records as to the hours worked
20 daily by employees also constitutes a violation of Labor Code section 1174(d).

21 20. MORGAN TIRE did not pay Plaintiff and the other Aggrieved Employees paid
22 sick leave at the correct rate of pay. MORGAN TIRE's payroll records reflect that every hour of
23 paid sick leave taken by Plaintiff was paid at his flat base hourly rate, without including non-
24 discretionary bonus compensation in the regular rate of pay used to calculate paid sick time as
25 required by Labor Code section 246, subdivision (l). Separately, MORGAN TIRE did not provide
26 Plaintiff or the other Aggrieved Employees with an itemized wage statement or separate writing
27 setting forth the amount of paid sick leave available, as required by Labor Code section 246,
28 subdivision (i).

1 21. Finally, because MORGAN TIRE did not properly pay all wages earned as
2 explained herein, MORGAN TIRE also failed to pay final wages owed to Plaintiff and the
3 Aggrieved Employees in violation of Labor Code sections 201 and 203. These earned but unpaid
4 wages include minimum wages and compensation for all hours worked, overtime compensation,
5 premium pay for missed meal and rest periods, and business expense reimbursement, among
6 others. In addition, MORGAN TIRE terminated Plaintiff's employment on or about June 11,
7 2026, but MORGAN TIRE's own payroll records reflect that Plaintiff was not provided with his
8 final paycheck until June 15, 2026, four days after the discharge.

9 22. MORGAN TIRE has also violated Labor Code section 558 and engaged in
10 business practices which violate Business and Professions Code Section 17200.

11 23. Plaintiff is an "aggrieved employee" within the meaning of Labor Code section
12 2699, subdivision (c). Plaintiff was employed by MORGAN TIRE during the PAGA Period and
13 personally suffered each of the violations alleged in this Complaint during the period prescribed
14 under Code of Civil Procedure section 340, as set forth in the specific factual allegations above.

15 24. Accordingly, Plaintiff now seeks civil penalties on behalf of himself, the State of
16 California, and the Aggrieved Employees based on Defendants' alleged violations of the
17 California Labor Code and the Wage Order.

18
19 **FIRST (AND ONLY) CAUSE OF ACTION**

20 **CIVIL PENALTIES**

21 **(Lab. Code §§ 2698, *et seq.*)**

22 **(Representative Claim for PAGA Penalties against all Defendants)**

23 25. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

24 26. At all relevant times, Plaintiff and the Aggrieved Employees have been non-
exempt employees entitled to the protections of both the Labor Code and the Wage Order.

25 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
26 **THE CORRECT RATES OF PAY**

27 27. Section 2(H) of Wage Order 9-2001 defines "hours worked" as "the time during
28 which an employee is subject to the control of an employer, and includes all the time the employee

1 is suffered or permitted to work, whether or not required to do so.”

2 28. Section 3 of the Wage Order states:

3 The following overtime provisions are applicable to employees 18 years of age or
4 over and to employees 16 or 17 years of age who are not required by law to attend
5 school and are not otherwise prohibited by law from engaging in the subject work.
6 Such employees shall not be employed more than eight (8) hours in any workday
7 or more than 40 in a workweek unless the employee receives one and one half
8 (1½) times such employee’s regular rate of pay for all hours worked over 40 hours
9 in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment
10 beyond eight (8) hours in any workday or more than six (6) days in any workweek
11 is permissible provided the employee is compensated for such overtime at not less
12 than:

- 13 (a) One and one-half (1½) times the employee’s regular rate of pay for all
14 hours worked in excess of eight (8) hours up to and including twelve (12)
15 hours in any workday, and for the first eight (8) hours worked on the
16 seventh (7th) consecutive day of work in a workweek;
- 17 (b) Double the employee’s regular rate of pay for all hours worked in excess
18 of 12 hours in any workday and for all hours worked in excess of eight (8)
19 hours on the seventh (7th) consecutive day of work in a workweek.
- 20 (c) The overtime rate of compensation required to be paid to a nonexempt
21 full-time salaried employee shall be computed by using the employee’s
22 regular hourly salary as one fortieth (1/40) of the employee’s weekly
23 salary.

24 29. Section 4 of the Wage Order requires an employer to pay non-exempt employees
25 at least the minimum wage set forth therein for all hours worked, which consists of all hours that
26 an employer has actual or constructive knowledge that employees are working.

27 30. Labor Code section 510 states:

28 Eight 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. Nothing in this section requires an employer to combine more
than one rate of overtime compensation in order to calculate the amount to be paid
to an employee for any hour of overtime work.

31. Labor Code section 1194 invalidates any agreement between an employer and an

employee to work for less than the minimum wage required under the applicable Wage Order.

32. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

33. Labor Code section 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

34. In conjunction, these provisions of the Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should have known that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.)

35. At all relevant times during the applicable limitations period, Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked, including but not limited to minimum wages for off-the-clock work performed before and after their scheduled shifts and overtime wages for all overtime hours they worked at the correct rates of pay, and including because Defendants excluded non-discretionary bonus compensation from the regular rate of pay used to calculate overtime.

36. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to compensate Plaintiff and the other Aggrieved Employees for all hours worked as required by California law.

B. FAILURE TO PROVIDE MEAL PERIODS

37. In relevant part, California Labor Code § 1198 states:

The 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.

38. In relevant part, California Labor Code § 512 states:

An employer shall 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, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the

1 employer and employee.

2 An employer shall not employ an employee for a work period of
3 more than 10 hours per day without providing the employee with
4 a second meal period of not less than 30 minutes, except that if the
5 total hours worked is no more than 12 hours, the second meal
period may be waived by mutual consent of the employer and the
employee only if the first meal period was not waived.

6 39. In relevant part, Section 11 of Wage Order 9-2001 states:

7 Meal Periods:

- 8 (A) No employer shall employ any person for a work period of
9 more than five (5) hours without a meal period of not less than
10 30 minutes, except that when a work period of not more than
11 six (6) hours will complete the day's work the meal period may
12 be waived by mutual consent of the employer and employee.
13 Unless the employee is relieved of all duty during a 30 minute
14 meal period, the meal period shall be considered an "on duty"
15 meal period and counted as time worked. An "on duty" meal
16 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 paid
meal period is agreed to. The written agreement shall state that
the employee may, in writing, revoke the agreement at any
time.
- 17 (B) If an employer fails to provide an employee a meal period in
18 accordance with the applicable provisions of this Order, the
19 employer shall pay the employee one (1) hour of pay at the
20 employee's regular rate of compensation for each work day that
the meal period is not provided.

21 40. In relevant part, California Labor Code § 226.7 states:

- 22 (b) An employer shall not require an employee to work during
23 a meal or rest period mandated pursuant to an applicable
24 statute, or applicable regulation, standard, or order of the
25 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.
- 26 (c) If an employer fails to provide an employee a meal period
27 or rest period in accordance with a state law, including, but
28 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 meal or rest period is not provided.

41. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the Aggrieved Employees were entitled to uninterrupted meal periods of at least 30 minutes for each day they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

42. Defendants intentionally failed to provide Plaintiff and the Aggrieved Employees with all required timely 30-minute meal periods free from any work duties in accordance with the Wage Order.

43. At all relevant times, Defendants failed to provide Plaintiff and the Aggrieved Employees with all timely and uninterrupted meal periods, including by permitting Plaintiff's meal period to begin as late as approximately 2:30 p.m. notwithstanding an 8:00 a.m. start time, by directing Plaintiff to perform work instead of taking a meal period, and by interrupting meal periods to assign tasks, give instructions, and ask work-related questions. Furthermore, Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and the other Aggrieved Employees with compliant meal periods, and Defendants' payroll records contain no meal period premium line item of any kind.

44. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not providing Plaintiff and the Aggrieved Employees with all off-duty meal periods required by California law.

C. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS

45. In relevant part, California Labor Code § 1198 states:

The 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.

46. In relevant part, Section 12 of Wage Order 9-2001 states:

Rest Periods:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If 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.

47. In relevant part, California Labor Code § 226.7 states:

(b) An 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, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal period or rest 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 meal or rest period is not provided.

48. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

49. Defendants intentionally failed to authorize and permit Plaintiff and the Aggrieved Employees to take all 10-minute rest periods free from any work duties in accordance with the Wage Order.

1 50. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
2 Aggrieved Employees to take all timely, net, uninterrupted rest periods. Furthermore, Defendants
3 failed to pay premium wages to Plaintiff and the Aggrieved Employees for days on which they
4 failed to authorize and permit Plaintiff and the other Aggrieved Employees to take compliant rest
5 periods.

6 51. At all relevant times, Defendants failed to authorize and permit Plaintiff and
7 the Aggrieved Employees to take net, uninterrupted, duty-free rest periods. MORGAN TIRE's
8 manager, Alberto Toledano, and the owner's son frequently approached Plaintiff during his rest
9 periods to assign tasks, give instructions, and ask work-related questions. Plaintiff and the
10 Aggrieved Employees were therefore not relieved of all duty during their rest periods. Defendants
11 did not seek an exemption from the rest period protections of the Wage Order from the California
12 Division of Labor Standards Enforcement. Moreover, Defendants failed to pay Plaintiff and the
13 Aggrieved Employees premium wages on workdays they failed to authorize and permit compliant
14 rest periods, and Defendants' payroll records contain no rest period premium line item of any
15 kind.

16 52. Plaintiff is informed and believes and thereon alleges that, at all relevant times
17 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
18 which resulted in Defendants not authorizing and permitting Plaintiff and the Aggrieved
19 Employees to take all rest periods required by California law.

20 **D. FAILURE TO INDEMNIFY**

21 53. In pertinent part, California Labor Code section 2802(a) states, "An employer shall
22 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct
23 consequence of the discharge of his or her duties."

24 54. Labor Code section 1198 prohibits employers from employing their employees
25 under conditions prohibited by the Wage Order.

26 55. At all relevant times during the applicable limitations period, as a condition of
27 employment, Defendants required Plaintiff and the Aggrieved Employees to incur certain
28 business expenses. These costs include, but are not limited to, personal protective equipment and
tools such as work gloves, steel-toe boots, and cloths used to clean tires; the use of their own
personal mobile telephones for work-related calls and text messages; and, as to Plaintiff, the use
of his personal vehicle for the company's benefit. Defendants did not reimburse Plaintiff or the

1 other Aggrieved Employees for any of these business expenses. Plaintiff's hourly rate of pay was
2 at all times less than two times the applicable California minimum wage. Under Section 9(B) of
3 the Wage Order, Defendants were therefore required to provide and maintain the tools and
4 equipment required to perform the job, and could not lawfully require Plaintiff and the Aggrieved
Employees to provide and maintain them.

5 56. Therefore, Defendants failed to indemnify Plaintiff and the Aggrieved Employees
6 for expenditures incurred as a direct consequence of discharging their duties in violation of
7 California Labor Code sections 2800 and 2802.

8 57. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
9 Defendants maintained a policy and/practice, or lack thereof, which resulted in Defendants'
10 failure to indemnify Plaintiff and the Aggrieved Employees for the reasonable expenses they
11 incurred during the course of performing their duties.

12 **E. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
13 **STATEMENTS**

14 58. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved
15 Employees were entitled to receive, semi-monthly or at the time of each payment of wages, an
16 accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable
17 hourly rates in effect during the pay period; and d) the corresponding number of hours worked at
each hourly rate by the employee.

18 59. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
19 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
20 the employer fails to provide accurate and complete information as required by California Labor
21 Code § 226(a) and the employee cannot "promptly and easily determine" from the wage statement
22 alone one or more of the following:

23 A. The amount of the gross wages or net wages paid to the employee during
24 the pay period or any of the other information required to be provided on the itemized wage
statement pursuant to California Labor Code § 226(a);

25 B. Which deductions the employer made from gross wages to determine the
26 net wages paid to the employee during the pay period;

27 C. The name and address of the employer and, if the employer is a farm labor
28 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name

1 and address of the legal entity that secured the services of the employer during the pay period;

2 D. The name of the employee and only the last four digits of his or his social
3 security number or an employee identification number other than a social security number; and

4 E. The number of piece-rate units earned and the piece rate.

5 60. "Promptly and easily determine," as stated in California Labor Code § 226(e),
6 means a reasonable person would be able to readily ascertain the information without reference
7 to other documents or information.

8 61. As alleged herein, at all relevant times during the applicable limitations period,
9 Defendants violated California Labor Code section 226 because they did not properly and
10 accurately itemize each employee's gross wages earned, net wages earned, the total hours worked,
11 the corresponding number of hours worked at each rate by the employee, and other requirements
12 of California Labor Code section 226. Defendants failed to state in the wage statements they
13 issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned,
14 including, but not limited to, regular and overtime wages for work they performed off-the-clock
15 and premium wages for non-compliant meal and rest periods, as described above, and failed to
16 state all applicable hourly rates in effect during the pay period because overtime and paid sick
17 leave were computed at rates that excluded non-discretionary bonus compensation. The wage
18 statements Defendants issued to Plaintiff also failed to set forth the amount of paid sick leave
19 available to him.

20 62. Defendants' failure to provide Plaintiff and the other Aggrieved Employees with
21 accurate wage statements was knowing and intentional. Defendants had the ability to provide
22 Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally
23 provided wage statements that Defendants knew were not accurate.

24 63. As a result of being provided with inaccurate wage statements by Defendants,
25 Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive
26 accurate wage statements were violated and they were misled about the amount of wages they
27 had actually earned and were owed. In addition, the absence of accurate information on their wage
28 statements prevented immediate challenges to Defendants' unlawful pay practices, has required
discovery and mathematical computations to determine the amounts of wages owed, has caused
difficulty and expense in attempting to reconstruct time and pay records and/or has led to the
submission of inaccurate information about wages to state and federal government agencies.

1 Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage
2 statements whether Defendants complied with their obligations under California Labor Code
3 section 226(a).

4 **F. FAILURE TO PAY PAID SICK LEAVE AT THE CORRECT RATE OF PAY AND**
5 **TO PROVIDE WRITTEN NOTICE OF AVAILABLE PAID SICK LEAVE**

6 64. Labor Code section 246, subdivision (l) provides that paid sick time for a
7 nonexempt employee shall be calculated in the same manner as the regular rate of pay for the
8 workweek in which the employee uses paid sick time, whether or not the employee actually works
9 overtime in that workweek, or by dividing the employee's total wages, not including overtime
10 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
11 of employment.

12 65. Labor Code section 246, subdivision (i) provides that an employer shall provide
13 an employee with written notice that sets forth the amount of paid sick leave available, or paid
14 time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized
15 wage statement described in Section 226 or in a separate writing provided on the designated pay
16 date with the employee's payment of wages.

17 66. Labor Code section 246.5 provides that, upon the oral or written request of an
18 employee, an employer shall provide paid sick days for the purposes enumerated therein, and that
19 an employer shall not deny an employee the right to use accrued sick days.

20 67. At all relevant times during the applicable limitations period, Defendants paid
21 Plaintiff and the Aggrieved Employees for paid sick time at their flat base hourly rates and did
22 not include non-discretionary bonus compensation in the regular rate of pay used to calculate paid
23 sick time, in violation of Labor Code section 246, subdivision (l).

24 68. At all relevant times during the applicable limitations period, Defendants failed to
25 provide Plaintiff and the Aggrieved Employees with an itemized wage statement or a separate
26 writing setting forth the amount of paid sick leave available to them, in violation of Labor Code
27 section 246, subdivision (i).

28 69. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
Defendants maintained a policy, practice, or a lack of a policy which resulted in Defendants'
failure to pay paid sick leave at the correct rate of pay and failure to provide written notice of the
amount of paid sick leave available.

1 **G. UNTIMELY WAGES DURING EMPLOYMENT**

2 70. Labor Code § 204 states:

3 (a) All wages, other than those mentioned in Section 201,
4 201.3, 202, 204.1, or 204.2, earned by any person in any
5 employment are due and payable twice during each
6 calendar month, on days designated in advance by the
7 employer as the regular paydays. Labor performed
8 between the 1st and 15th days, inclusive, of any calendar
9 month shall be paid for between the 16th and the 26th day
of the month during which the labor was performed, and
labor performed between the 16th and the last day,
inclusive, of any calendar month, shall be paid for
between the 1st and 10th day of the following month. ...

10 (b) (1) Notwithstanding any other provision of this
11 section, all wages earned for labor in excess of the normal
12 work period shall be paid no later than the payday for the
next regular payroll period.

13 (2) An employer is in compliance with the
14 requirements of subdivision (a) of Section 226
15 relating to total hours worked by the employee, if
16 hours worked in excess of the normal work period
17 during the current pay period are itemized as
18 corrections on the paystub for the next regular pay
period. Any corrections set out in a subsequently
issued paystub shall state the inclusive dates of
the pay period for which the employer is
correcting its initial report of hours worked.

19 (c) However, when employees are covered by a collective
20 bargaining agreement that provides different pay
21 arrangements, those arrangements shall apply to the
covered employees.

22 (d) The requirements of this section shall be deemed satisfied
23 by the payment of wages for weekly, biweekly, or
24 semimonthly payroll if the wages are paid not more than
25 seven calendar days following the close of the payroll
period.

26 71. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all
27 hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff
28 and the Aggrieved Employees with all meal and rest periods in compliance with California law.

1 Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages
2 on workdays they failed to provide them with one or more meal or rest periods in compliance
3 with California law. As a result, Defendants failed to timely pay all earned minimum, overtime,
4 and premium wages due during employment within the time periods set by California Labor Code
5 section 204.

6 **H. UNTIMELY FINAL WAGES**

7 72. Labor Code § 201 provides that all earned and unpaid wages of an employee who
8 is discharged are due and payable immediately at the time of discharge.

9 73. Labor Code § 202 provides that all earned and unpaid wages of an employee who
10 quits after providing at least 72-hours notice before quitting are due and payable at the time of
11 quitting and that all earned and unpaid wages of an employee who quits without providing at least
12 72-hours notice before quitting are due and payable within 72 hours.

13 74. By failing to pay earned minimum and premium wages to Plaintiff and the
14 Aggrieved Employees, Defendants failed to timely pay them all earned and unpaid wages in
15 violation of Labor Code § 201 or § 202. In addition, Defendants discharged Plaintiff on or about
16 June 11, 2026 but did not pay his final wages, including accrued vacation, until a manual check
17 dated June 15, 2026, four days after the discharge, in violation of Labor Code § 201.

18 75. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
19 and the Aggrieved Employees all of their earned and unpaid wages (described above) have been
20 willful in that, at all relevant times, Defendants have deliberately maintained policies and
21 practices that violate the requirements of the Labor Code and the Wage Orders, even though at
22 all relevant times, they have had the ability to comply with those legal requirements.

23 **I. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

24 76. Labor Code § 1174 states:

25 Every person employing labor in this state shall:

26 ...

27 (c) Keep a record showing the names and addresses of all employees
employed and the ages of all minors.

28 (d) Keep, at a central location in the state or at the plants or establishments

1 at which employees are employed, payroll records showing the hours
2 worked daily by and the wages paid to, and the number of piece-rate
3 units earned by and any applicable piece rate paid to, employees
4 employed at the respective plants or establishments. These records shall
5 be kept in accordance with rules established for this purpose by the
6 commission, but in any case shall be kept on file for not less than three
7 years. An employer shall not prohibit an employee from maintaining a
8 personal record of hours worked, or, if paid on a piece-rate basis, piece-
9 rate units earned.

10
11 77. Labor Code § 1174.5 states:

12 Any person employing labor who willfully fails to maintain the records required
13 by subdivision (c) of Section 1174, or to allow any member of the commission
14 or employees of the division to inspect records pursuant to subdivision (b) of
15 Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

16 78. Section 7 of Wage Order 9-2001 states:

17 (A) Every employer shall keep accurate information with respect to
18 each employee including the following:

- 19 (1) Full name, home address, occupation and social security
20 number.
- 21 (2) Birth date, if under 18 years, and designation as a minor.
- 22 (3) Time records showing when the employee begins and ends
23 each work period. Meal periods, split shift intervals and
24 total daily hours worked shall also be recorded. Meal
25 periods during which operations cease and authorized rest
26 periods need not be recorded.
- 27 (4) Total wages paid each payroll period, including value of
28 board, lodging, or other compensation actually furnished to
the Employee.
- (5) Total hours worked in the payroll period and applicable
rates of pay. This information shall be made readily
available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece
rates or an explanation of the incentive plan formula shall
be provided to employees. An accurate production record
shall be maintained by the employer.

79. Labor Code § 1198 prohibits employers from employing their employees under

1 conditions prohibited by the Wage Order.

2 80. On information and belief, Defendants have willfully failed to maintain the records
3 required by § 1174 and the Wage Order, including, but not limited to, accurate records of all hours
4 worked daily by Plaintiff and the Aggrieved Employees, including the off-the-clock time
5 described above, accurate records of when each work period and meal period began and ended,
6 and records of premium wages earned for non-compliant meal and rest periods.

7 81. Accordingly, Plaintiff seeks an award of civil penalties against the Defendants on
8 behalf of himself and all of the other Aggrieved Employees as follows: (1) \$500 for each
9 aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code
10 section 1174.5); and (2) \$100 for each aggrieved employee for each initial violation of Labor
11 Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per
12 pay period (penalties set by Labor Code section 2699(f)(2)).

13 **J. CIVIL PENALTIES SOUGHT**

14 82. During the applicable time period, Defendants violated California Labor Code
15 §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 246.5, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
16 1197, 1198, 2800, and 2802 and related Labor Code statutes and the Wage Order.

17 83. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
18 behalf of themselves and other current or former employees, to bring a civil action to recover civil
19 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

20 84. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved
21 Employees are entitled to recover civil penalties for each of the Defendants' violations of
22 California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 246.5, 510, 512, 558, 558.1,
23 1174, 1174.5, 1194, 1197, 1198, 2800, and 2802 during the applicable limitations period in the
24 following amounts:

25 A. For violations of California Labor Code § 204, one hundred dollars
26 (\$100.00) for each aggrieved employee for each initial violation and two hundred dollars
27 (\$200.00) for each aggrieved employee for each subsequent, willful or intentional violation
28 (penalty amounts established by California Labor Code § 210).

1 B. For violations of California Labor Code § 226, two hundred fifty dollars
2 (\$250.00) per employee for initial violation and one thousand dollars (\$1,000.00) per employee
3 for each subsequent violation (penalty amounts established by California Labor Code § 226.3).

4 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
5 (\$50.00) for each aggrieved employee for each initial violation for pay period for which the
6 employee was underpaid and one hundred dollars (\$100.00) for each underpaid employee for
7 each pay period for which the employee was underpaid (penalty amounts established by
8 California Labor Code § 558).

9 D. For violations of California Labor Code § 1174, five hundred dollars
10 (\$500.00) for each Aggrieved Employee for each initial violation (penalty amounts established
11 by Labor Code § 1174.5).

12 E. For violations of California Labor Code § 1197, one hundred dollars
13 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred
14 fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
15 (regardless of whether the initial violations were intentionally committed) (penalty amounts
16 established by California Labor Code § 1197.1).

17 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 246,
18 246.5, 1194, 1198, 2800, and 2802, one hundred dollars (\$100.00) for each aggrieved employee
19 per pay period for each violation, and two hundred dollars (\$200.00) for each aggrieved employee
20 per pay period for each violation as to which the conditions set forth in California Labor Code §
21 2699(f)(2) are satisfied (penalty amounts established by California Labor Code § 2699(f)(2)).

22 **K. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS**

23 85. Plaintiff has complied with the procedures for bringing suit specified in California
24 Labor Code § 2699.3. On July 13, 2026, Plaintiff gave written notice to the Labor and Workforce
25 Development Agency (“LWDA”) by online submission, and to Defendants by certified mail,
26 return receipt requested, of the specific provisions of the California Labor Code alleged to have
27 been violated, including the facts and theories to support the alleged violations. The LWDA has
28 failed to take action in response within 65 days of Plaintiff’s notice.

86. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved Employees are entitled to an award of civil penalties, reasonable attorneys' fees, and costs in connection with their claims for civil penalties.

PRAYER FOR RELIEF

87. WHEREFORE, Plaintiff, on behalf of himself and the Aggrieved Employees, prays for relief and judgment against Defendants as follows:

- A. Civil penalties;
- B. Costs of suit;
- C. Reasonable attorneys' fees; and
- D. Such other relief as the Court deems just and proper.

Respectfully submitted,

MM LAW, APC

Dated: September 18, 2026

By: Maralle Messrelian
Maralle Messrelian, Esq.
Attorney for Plaintiff,
XESAR MARTINEZ