

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

PAPPAS PIPING SERVICE, INC.; WILLIAM D BUTLER; and DOES
1 to 25, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JUAN DOMINGUEZ

E-FILED

3/13/2024 4:46 PM

Clerk of Court

Superior Court of CA,

County of Santa Clara

24CV433074

Reviewed By: M. Suarez

Envelope: 14696019

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Santa Clara Superior Court,
191 N. First St., San Jose, CA 95113, Downtown Superior Court

CASE NUMBER:
(Número del Caso):

24CV433074

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Harout Messrelian, Esq., 500 N. Central Ave., Suite 840, Glendale, CA 91203; 818-484-6531

DATE: 3/13/2024 4:46 PM
(Fecha)

Clerk of Court

Clerk, by M. Suarez
(Secretario)

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

1 **MESSRELIAN LAW INC.**
2 Harout Messrelilian, Esq., SB# 272020
3 500 N. Central Ave., Suite 840
4 Glendale, California 91203
5 Telephone: (818) 484-6531
6 Facsimile: (818) 956-1983

7 Attorneys for Plaintiff Juan Dominguez

E-FILED
3/13/2024 4:46 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
24CV433074
Reviewed By: M. Suarez

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

9 **FOR THE COUNTY OF SANTA CLARA**

10 JUAN DOMINGUEZ,) CASE NO.: 24CV433074
11)

12 Plaintiff,

13 vs.

14 PAPPAS PIPING SERVICE, INC.;
15 WILLIAM D BUTLER; and DOES 1 to 25,
16 inclusive,

17 Defendants.

18 **COMPLAINT FOR DAMAGES FOR:**

- 19 1) **FAILURE TO COMPENSATE FOR**
20 **ALL HOURS WORKED;**
21 2) **FAILURE TO PAY MINIMUM**
22 **WAGES;**
23 3) **FAILURE TO PAY OVERTIME;**
24 4) **FAILURE TO PROVIDE**
25 **ACCURATE ITEMIZED WAGE**
26 **STATEMENTS;**
27 5) **FAILURE TO PAY WAGES OWED**
28 **EVERY PAY PERIOD;**
6) **FAILURE TO GIVE REST BREAKS;**
7) **FAILURE TO GIVE MEAL**
BREAKS;
8) **FAILURE TO PAY WAGES WHEN**
EMPLOYMENT ENDS;
9) **FAILURE TO REIMBURSE FOR**
BUSINESS EXPENSES;
10) **PRIVATE ATTORNEYS GENERAL**
ACT ("PAGA");
11) **FAILURE TO PROVIDE**
PERSONNEL RECORDS;
12) **FAILURE TO PROVIDE PAY**
RECORDS;
13) **VIOLATION OF CALIFORNIA**
BUSINESS AND PROFESSIONS
CODE SECTION 17200

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, JUAN DOMINGUEZ (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Santa Clara in this judicial district because Defendants PAPPAS PIPING SERVICE, INC., WILLIAM D BUTLER, and DOES 1 to 25, inclusive, do business in the County of Santa Clara and because Defendants' obligations and liabilities arise therein. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the County of Santa Clara, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant PAPPAS PIPING SERVICE, INC. is a California Corporation, doing business in Santa Clara County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant WILLIAM D BUTLER is and was a male resident of the County of Santa Clara, State of California. Plaintiff alleges that WILLIAM D BUTLER was and is the owner, managing agent, and/or director of PAPPAS PIPING SERVICE INC., was involved in the day-to-day operations of the business, and controlled the wages, hours, and/or working conditions of Plaintiff and other hourly, non-exempt employees during the applicable PAGA period. Defendants PAPPAS PIPING SERVICE INC. and WILLIAM D BUTLER are collectively referred to herein as "PAPPAS" or "Defendant(s)".

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of

1 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
2 and capacities of these fictitiously named defendants.

3
4 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
5 that information and belief, alleges that at all times herein mentioned, each of the remaining
6 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
7 under the authority of their agency, employment, or representative capacity, with the consent
8 of his/her codefendants.

9 GENERAL ALLEGATIONS

10 7. Plaintiff was employed by PAPPAS as a laborer/plumber. Plaintiff was paid \$32.00 per
11 hour and was classified as an hourly, non-exempt employee. Plaintiff's employment ended on
12 or around November 2023.

13 8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
14 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas
15 Security Services USA, Inc., an onsite security provider. After about a year of employment,
16 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff
17 specifically alleged violations to the Labor Code requiring immediate payment of wages upon
18 termination of employment and weekly payment of wages to temporary employees. The trial
19 court determined Huff was not a temporary employee, and therefore, lacked standing to bring
20 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
21 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
22 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
23 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
24 PAGA representative to sue for violations that the representative has personally suffered. The
25 PAGA statute states that an "aggrieved employee" is able to file suit on behalf of themselves
26 and others. The statute also states that an "aggrieved employee" is "any person who was
27 employed by the alleged violator and against whom one or more of the alleged violations was
28

1 committed.” Because at least one of the violations that Huff had alleged had affected him
2 personally, the Court of Appeal denied Securitas’ motion.

3 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
4 other employees, it allows for suits broader than the specific violations the named employee
5 experienced. Therefore, even if the employee did not personally experience the Labor Code
6 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
7 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
8 other employees, including ALL hourly, non-exempt employees, irrespective of job title or job
9 duties, who worked for PAPPAS at any time during the relevant PAGA period.

10 10. It is Plaintiff’s position that PAPPAS has violated the following Labor Code Sections
11 against Plaintiff and other aggrieved employees, who include all non-exempt, hourly employees
12 who worked for PAPPAS at their various locations in the State of California during the relevant
13 PAGA period.

14 11. PAPPAS violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to pay
15 Plaintiff and other similarly situated aggrieved employees for all hours worked, including the
16 statutory minimum wage for all hours worked and for “off the clock” work. This is so because
17 PAPPAS had a company policy wherein they would disproportionately round down the number
18 of hours worked, resulting in “time shaving” and further resulting in aggrieved employees not
19 being paid for all hours worked. In fact, PAPPAS did not even have a formal timekeeping policy
20 and did keep track of all hours worked, including the time it took for Plaintiff and others to drive
21 to the job sites. There was no clock in/out system in place, and as such, the time records were
22 inaccurate and rounded down to the detriment of the employees. Plaintiff and others were not
23 paid for the travel time and the drive time, even though they were under the control of the
24 employer and despite the fact that employees would travel to different sites in one workday. The
25 latter is a minimum wage violation. Furthermore, as mentioned, there was no formal timekeeping
26 system and all work hours were rounded, which is not in line with reality.

27 12. Pursuant to California Industrial Welfare Commission Order No. 16-2001, Section 8(B),
28

1 “When tools or equipment are required by the employer or are necessary to the performance of
2 a job, such tools and equipment shall be provided and maintained by the employer, except that
3 an employee whose wages are at least two (2) times the minimum wage provided herein may be
4 required to provide and maintain hand tools and equipment customarily required by the trade or
5 craft.” PAPPAS unequivocally required its employees, including painters like Plaintiff, to
6 provide their own hand tools for the performance of their job duties. As such, PAPPAS violated
7 the aforementioned IWC Wage Order in that PAPPAS required its laborers, including plumbers,
8 including Plaintiff, to provide and maintain hand tools and equipment customarily required by
9 the trade but did NOT compensate these employees at least two (2) times the minimum wage at
10 all times.

11 13. Furthermore, PAPPAS was subject to the prevailing wage laws of the State of California
12 pursuant to Labor Code § 1771, regarding work undertaken on public construction projects.
13 Under Labor Code § 1771, the only legal wage which may be paid to workers on public works
14 projects is the prevailing wage. PAPPAS compensated Plaintiff and other similarly situated
15 aggrieved employees for their labor on public improvement, or public works construction
16 projects, at a rate of pay below the general prevailing rate of per diem wages for work of a similar
17 character in the locality in which the public work is performed, and less than the general
18 prevailing rate of per diem wages for holiday and overtime work.

19 14. PAPPAS was subject to the prevailing wage laws of the State of California pursuant to
20 Labor Code § 1774, regarding work undertaken on public construction projects. PAPPAS
21 violated Labor Code § 1774, because it paid its employees, including Plaintiff, less than the
22 specific prevailing rates of wages to all workmen employed in the execution of the contract of
23 the projects. Plaintiff and others similarly situated worked on public works projects, especially
24 for the State of California.

25 15. Due to the above “off the clock” violations, PAPPAS also violated Labor Code §510
26 because it failed to pay Plaintiff and other aggrieved employees overtime compensation, even
27 though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
28 throughout their employment. Plaintiff’s and other aggrieved employees’ actual work hours,

1 including travel time, entitled them to overtime compensation, however, PAPPAS did not
2 compensate its hourly, non-exempt employees with ANY amount of overtime, despite the “off
3 the clock” work and time shaving as described above. It did not matter that Plaintiff or others
4 worked more than 8 hours per day. Overtime was simply not part of the company policy.
5 Furthermore, PAPPAS failed to include bonuses/incentive payments in calculating employees’
6 regular rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the
7 incentive and bonus payments were also not factored into employees’ regular rate for purposes
8 of receiving meal and rest break premiums per the Ferra v. Loews case.

9 16. PAPPAS also violated Labor Code § 226.7 and the appropriate Industrial Welfare
10 Commission Wage Order no. 16 because it failed to provide Plaintiff and other similarly situated
11 aggrieved employees with timely 10-minute rest periods for every four hours of work, or
12 majority portion thereof, throughout their employment. PAPPAS did not completely relieve
13 Plaintiff and others of all duty during said rest periods. PAPPAS did not pay to Plaintiff and
14 others one additional hour of pay at Plaintiff’s regular rate of compensation for each workday
15 that one or more statutory rest periods was not provided or was interrupted. Consistently, timely,
16 and complete rest periods were also simply not part of the company policy and were not
17 consistently enforced.

18 17. PAPPAS violated Labor Code §§ 512 and 226.7 and the appropriate Industrial Welfare
19 Commission Wage Order no. 16 because it failed to provide hourly, non-exempt employees,
20 including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods for every five
21 (5) hours of work throughout their employment. PAPPAS did not completely relieve Plaintiff
22 and other employees of all duty during said meal periods. PAPPAS did not pay to Plaintiff and
23 its hourly, non-exempt employees one additional hour of pay at their regular rate of
24 compensation for each workday that one or more statutory meal periods was not provided.
25 Plaintiff and the hourly, non-exempt employees would not always receive meal periods before
26 the 5th hour worked that were actually uninterrupted. Moreover, PAPPAS did not have
27 employees such as Plaintiff and others clock in and out for meal periods. As such, there is a
28 rebuttable presumption that meal periods were not taken or provided. Since Plaintiff and others

1 did not clock in and clock out for meal periods as there is no record of Plaintiff even receiving a
2 single statutory meal period throughout his employment.

3 18. Consequently, it was the normal practice and custom of PAPPAS not to authorize, permit,
4 and enforce timely, uninterrupted, statutory meal periods. If PAPPAS had Plaintiff sign a meal
5 period waiver, it would not be valid and enforceable since Plaintiff and others generally worked
6 more than a 6-hour shift. If PAPPAS had Plaintiff sign an on-duty meal period agreement
7 wherein Plaintiff agreed to work through the meal periods, it would be invalid and unenforceable
8 because the nature of Plaintiff's job does not and did not prevent him from taking a meal period
9 and the company could have hired "breakers" to relieve Plaintiff of his job duties so that he can
10 actually take a timely, uninterrupted meal period. Moreover, any such "on duty" meal period
11 agreement did not allow for Plaintiff to revoke such an agreement even if it was signed. As such,
12 Plaintiff and others did not always receive statutory, timely meal periods during their
13 employment. To the extent that PAPPAS argues that employees receive meal break premium
14 pay for missed meal periods, that argument is inconsequential for PAGA penalty purposes since
15 the PAGA penalties are for the violations themselves, irrespective of whether an employee
16 received the premium payment for a missed, short, or interrupted meal period. In *Kirby v.*
17 *Immoos Fire Protection, Inc.*, the Court stated, "section 226.7 does not give employers a lawful
18 choice between providing *either* meal and rest breaks *or* an additional hour of pay." *See Kirby v.*
19 *Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the
20 extra hour of pay does not excuse the violation; the employer has still committed a violation even
21 if the remedy for the violation has been paid. *See Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016,
22 2016 WL 1110302 at *4). As such, the work environment and culture at PAPPAS was not
23 conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover,
24 any meal or rest break premiums paid were not compensated at the weighted average regular
25 rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

26 19. Furthermore, during the relevant time period, and due to the above labor code violations,
27 PAPPAS failed to pay Plaintiff and other similarly situated aggrieved employees all wages due
28 to them within any time period specified by California Labor Code section 204. PAPPAS was
also in violation of California Labor Code section 226(a) by failing to include pertinent

1 information on the wage statements, including but not limited to, the correct hourly rate, all hours
2 worked, overtime hours worked, correct overtime pay, gross wages earned, net wages earned,
3 premium pay for missed meal and rest breaks, all deductions, the correct start and end of the pay
4 period, all employee identifying information, the correct and complete name and address of the
5 legal employer, and reimbursement for business expenses, among others. As such, PAPPAS did
6 not provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
7 itemized wage statements.

8 20. During the relevant time period, PAPPAS also failed to keep accurate and complete
9 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
10 others pursuant to California Labor Code sections 1174(d).

11 21. PAPPAS also violated Labor Code § 203 because it willfully failed to pay Plaintiff and
12 other similarly situated aggrieved employees earned and due wages upon separation of
13 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
14 These earned but unpaid wages include compensation for all hours worked, including minimum
15 wages, overtime compensation, and premium pay for missed meal and rest breaks.

16 22. During the relevant time period, Plaintiff and other aggrieved employees incurred
17 necessary, business-related expenses and costs that were not reimbursed by PAPPAS. These
18 costs include, but are not limited to, uniforms, use of personal cell phones for work purposes,
19 use of personal vehicles without proper mileage reimbursement, and use of personal hand tools
20 for work purposes, including cutters. Accordingly, PAPPAS was in violation of California Labor
21 Code sections 2800 and 2802.

22 23. Moreover, PAPPAS failed to provide Worker's Compensation coverage for Plaintiff and
23 other aggrieved employees in violation of Labor Code Section 3700.5.

24 24. Furthermore, we believe your companies have also violated Labor Code Section 558
25 and has engaged in business practices which violate Business and Professions Code Section
26 17200.

27 25. Each of the aforementioned violations, except the violations for inaccurate pay
28

1 statements under Labor Code section 226(a), is among the enumerated serious violations set
2 forth in Labor Code § 2699.5, for which there is no statutory right to cure.

3 **FIRST CAUSE OF ACTION**

4 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

5 **(California Industrial Welfare Commission Order 4-2001/16-2001, California Code of**
6 **Regulations Title 8 Section 11040/11160, and California Labor Code Section 1198)**

7 **(Plaintiff against all named defendants and all DOE defendants)**

8 26. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

10 27. At all times relevant herein, Defendants were required to compensate its employees for
11 all hours worked upon reporting for work at the appointed time stated by the employer
12 pursuant to Industrial Welfare Commission Order 4-2001/16-2001, California Code of
13 Regulations, Title 8, Section 11040/11160.

14 28. For the three (3) years preceding filing of this action, Defendants failed to compensate
15 Plaintiff for all hours worked.

16 29. Under the aforementioned wage order and regulations, Plaintiff is to recover
17 compensation for all hours worked but not paid by Defendants for the three (3) years
18 preceding the filing of this Complaint.

19 30. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
20 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
21 this Court.

22 31. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
23 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
24 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
25 reasonable attorney's fees and costs of suit.

26 32. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
27 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
28

1 amount known to Plaintiff once he has obtained all of his payroll records from
2 Defendants.

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM WAGES**

5 **(California Labor Code Sections 1771,1774, 1194, 1194.2, 1197)**

6 **(Plaintiff against all named defendants and all DOE defendants)**

7 33. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.
9

10 34. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
11 to suffer or permit a California employee to work without paying wages at the minimum wage
12 rate for all hours worked as required by the applicable Industrial Welfare Commission
13 (hereinafter "IWC") Wage Order No. 4-2001/16-2001, codified at California Code of
14 Regulations, Title 8, Section 11040/11160, subdivision 4.

15 35. Pursuant to IWC Wage Order no. 4-2001 and/or 16-2001, subdivision 2, at all
16 relevant times, "hours worked" included "the time during which an employee is subject to the
17 control of an employer, and includes all the time the employee is suffered or permitted to work,
18 whether or not required to do so..."

19 36. During his employment, Plaintiff was regularly required as a matter of uniform
20 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
21 was paid less than the minimum wage rate by Defendants for hours worked in violation of
22 California Labor Code Section 1197 and the applicable California Industrial Wage
23 Commission wage order(s).

24 37. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
25 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
26 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
27 to believe that their acts or omissions were not contrary to California law.

28 38. For all hours worked by Plaintiff for which he was paid less than the minimum wage

1 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
2 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
3 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
4 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

5 39. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
6 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
7 trial.

8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO PAY OVERTIME**

10 **(California Industrial Welfare Commission Order 4-2001/16-2001, California Code of**
11 **Regulations Title 8 Section 11040/11160)**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 40. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 39, inclusive, of this Complaint as though fully set forth herein. This
15 cause of action is brought by Plaintiff against all Defendants jointly and individually.

16 41. Pursuant to Industrial Welfare Commission Orders No. 4-2001/16-2001, California
17 Code of Regulations, Title 8, Section 11040/11160, for the period of Plaintiff's employment,
18 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
19 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
20 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
21 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
22 consecutive work day in a week.

23 42. Plaintiff was a non-exempt employee entitled to the protections of the California
24 Industrial Welfare Commission Order No. 4-2001/16-2001, California Code of Regulations,
25 Title 8, Section 11040/11160.

26 43. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
27 single workweek on numerous occasions.
28

1 44. Plaintiff worked more than twelve (12) hours in a single workday.

2 45. Plaintiff was entitled to the above overtime premiums.

3 46. Defendants did not pay Plaintiff premium wages of at least one and one-half times
4 Plaintiff's correct regular rate of pay for hours worked past eight (8) in a day.

5 47. Defendants did not pay Plaintiff premium wages of at least one and one-half times
6 Plaintiff's correct regular rate of pay for hours worked past forty (40) in a week.

7 48. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's correct
8 regular rate of pay for hours worked past twelve (12) in a day.

9 49. Plaintiff worked at least one pay period in which he was not properly paid the correct
10 amount of overtime within the three (3) years prior to the initiation of this lawsuit.

11 50. Defendants know or should know the actual dates of overtime worked, the amount of
12 overtime worked, and the amount of unpaid overtime due.

13 51. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
14 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
15 Court.

16 52. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
17 Regulations, Title 8, Section 11040/11160, Plaintiff is entitled to recover damages for the
18 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
19 reasonable attorney's fees and costs of suit.
20

21 **FOURTH CAUSE OF ACTION**

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

23 **(California Labor Code Section 226)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 53. Plaintiff re-alleges and incorporates by reference each and every allegation in
26
27
28

1 paragraphs 1 through 52, inclusive, of this Complaint as though fully set forth herein. This
2 cause of action is brought by Plaintiff against all Defendants jointly and individually.

3 54. Labor Code section 226(a) requires employers provide employees with itemized wage
4 statements.

5 55. Labor Code section 226(a)(2) requires pay stubs accurately account for hours worked
6 and the applicable hourly rates.

7 56. Labor Code section 226(a)(9) requires pay stubs to accurately reflect all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at
9 each hourly rate.

10 57. Pursuant to California Labor Code Section 226, every employer must furnish each
11 employee an itemized statement of wages and deductions at the time of payment of wages.

12 58. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs
13 that accurately reflected all information required by Labor Code Section 226, including but not
14 limited to, gross wages earned, net wages earned, total hours worked by the employee, all
15 deductions, overtime hours and pay, premium pay for rest break and meal break violations, and
16 business expense reimbursement, among others. Therefore, Defendants failed to maintain and
17 provide accurate itemized wage statements to Plaintiff in accordance with California Labor
18 Code Section 226(a).

19 59. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
20 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
21 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
22 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
23 reasonable attorney's fees.

24 60. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
25 sustained damages, including loss of earnings, in an amount to be established at trial. As a
26 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
27 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
28

1 and attorney's fees pursuant to statute.

2
3 **FIFTH CAUSE OF ACTION**

4 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

5 **(California Labor Code Section 204)**

6 **(Plaintiff against all named defendants and all DOE defendants)**

7 61. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 60, inclusive, of this Complaint as though fully set forth herein. This
9 cause of action is brought by Plaintiff against all Defendants jointly and individually.

10 62. California Labor Code Section 204 establishes the fundamental right of all employees
11 in the State of California to be paid wages in a timely fashion for their work.

12 63. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
13 full amount of all owed wages when due as required by California Labor Code Section 204.

14 64. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
15 informed, believes, and thereon alleges, that all times relevant during the liability period,
16 Defendants maintained a policy or practice of not paying Plaintiff the minimum wage for all
17 hours worked, not paying Plaintiff for all overtime hours worked, and not compensating
18 Plaintiff with premium pay for missed rest and meal breaks.

19 65. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
20 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
21 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
22 from Defendants' records or indirectly based on information from Defendants' records.

23
24 **SIXTH CAUSE OF ACTION**

25 **FAILURE TO GIVE REST BREAKS**

26 **(Plaintiff against all named defendants and all DOE defendants)**

27 66. Plaintiff re-alleges and incorporates by reference each and every allegation in
28

1 paragraphs 1 through 65, inclusive, of this Complaint as though fully set forth herein. This
2 cause of action is brought by Plaintiff against all Defendants jointly and individually.

3 67. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 4 a. Title 8 of the California Code of Regulations Section 11040(12)(A)/11160(11)(A),
5 which provides that every employer shall authorize and permit all employees to
6 take rest periods, which insofar as practicable shall be in the middle of each work
7 period. The authorized rest period time shall be based on the total hours worked
8 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
9 thereof;
10
- 11 b. Title 8 of the California Code of Regulations Section 11040(12)(B)/11160(11)(B),
12 which provides that if an employer fails to provide an employee a rest period in
13 accordance with the applicable provisions of this order, the employer shall pay the
14 employee one (1) hour of pay at employee's regular rate of compensation for each
15 workday that the rest period is not provided;
16
- 17 c. Title 8 of the California Code of Regulations section 11040(20)(A)/11160(18)(A),
18 which penalizes the employer \$50.00 for each initial violation, per employee, of any
19 provision of the Wage Order, and \$100.00 for each additional violation thereafter
20 per employee; and
- 21 d. California Labor Code section 226.7, which states that (a) no employer shall require
22 any employee to work during any rest period mandated by an applicable order of
23 the Industrial Welfare Commission, and (b) if an employer fails to provide an
24 employee a rest period in accordance with an applicable order of the Industrial
25 Welfare Commission, the employer shall pay the employee one (1) additional hour
26 of pay at employee's regular rate of compensation for each work day that the rest
27
28

period is not provided.

68. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

69. Under this cause of action, Plaintiff prays for wages due to him under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs, in an amount to be proven at trial. Specifically, Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

70. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees as well as interest under Labor Code section 218.6.

SEVENTH CAUSE OF ACTION

FAILURE TO GIVE MEAL BREAKS

(Plaintiff against all named defendants and all DOE defendants)

71. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 70, inclusive, of this Complaint as though fully set forth herein.

72. Plaintiff brings this cause of action under the following laws, for the following reasons:

- a. California Labor Code section 512(a), which requires that employees be given a 30-minute uninterrupted meal break after five (5) hours of work, and a second uninterrupted meal break after ten (10) hours of work;
- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial

1 Welfare Commission, the employer shall pay the employee one (1) additional hour
2 of pay at the employee's regular rate of compensation for each workday that the
3 meal period is not provided;

- 4 c. California Industrial Welfare Commission Order No. 4 and/or 16 section
5 11(B)/10(B), as codified under Title 8 of the California Code of Regulations
6 Section 11040 and/or 11160, which state that if an employer fails to provide an
7 employee a meal period in accordance with the applicable provisions of the Wage
8 Order, the employer shall pay the employee one (1) hour of pay at the employee's
9 regular rate of compensation for each workday that the meal period is not provided;
10
11 d. California Industrial Welfare Commission Wage Order No. 4 and/or 16 Section
12 7(A)(3)/6(A)(3), as codified under Title 8 of the California Code of Regulations
13 Section 11040 and/or 11160, which require an employer to maintain records
14 documenting its employees' meal periods;
15
16 e. California Industrial Welfare Commission wage order No. 4 and/or 16 Section
17 20(A)/18(A), as codified under California Code of Regulations Section 11040
18 and/or 11160, which penalizes the employer \$50.00 for each initial violation, per
19 employee, of any provision of the Wage Order, and \$100.00 for each additional
20 violation thereafter per employee; and
21
22 f. California Labor Code section 1171 and 1173, which have given the California
23 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4
24 and/or 16) as enforceable law.

25 73. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
26 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
27 take a second relieved meal break after ten (10) hours of work, as required by California law.
28

1 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
2 4 and/or 7, as codified under California Code of Regulations Sections 11040 and/or 11070 et.
3 seq., require that employees receive uninterrupted meal periods every five (5) hours of
4 consecutive work, and that the meal period be at least 30 minutes in length, wherein employee
5 is relieved of all work duty. California Labor Code section 226.7 provides that employers may
6 not require their employees to work through their meal periods. California Labor Code section
7 226.7 and California Code of Regulations section 11040 and/or 11160 require that if the
8 employer fails to provide the employee with an uninterrupted meal period, the employer must
9 pay the employee one (1) hour of pay for each work day that the meal period is not given.
10

11 74. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
12 regulations, and wage orders alleged in this cause of action along with any allowable interest,
13 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
14 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

15 75. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
16 fees as well as interest under Labor Code section 218.6.

17 76. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
19 trial.

20 **EIGHTH CAUSE OF ACTION**

21 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

22 **(California Labor Code Sections 201, 203)**

23 **(Plaintiff against all named defendants and all DOE defendants)**

24 77. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 76, inclusive, of this Complaint as though fully set forth herein.

26 78. Pursuant to California Labor Code Section 201(a), an employer who discharges an
27 employee must immediately pay for all compensation due and owing.
28

1 79. Pursuant to California Labor Code Section 202, when an employee resigns, the
2 employer must pay all compensation due and owing within 72 hours of resignation, or on the
3 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

4 80. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
5 without abatement or reduction, any wages of an employee whose employment ends, the wages
6 of the employee shall continue as a penalty from the due date at the same rate until paid or until
7 an action is commenced; however, the wages shall not continue for more than 30 days for
8 failure to pay an employee owed wages.

9 81. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
10 from his employment, Defendants willfully refused and continue to refuse to pay him unpaid
11 wages as required by Labor Code Section 203.

12 82. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
15 preceding the filing of this lawsuit.

16 83. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
17 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
18 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

19 84. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
20 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
21 trial.

22 **NINTH CAUSE OF ACTION**

23 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

24 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

25 85. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 84, inclusive, of this Complaint as thought fully set forth herein.

27 86. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
28 employee for all necessary expenditures or losses incurred by the employee in direct

consequence of the discharge of his or her duties.”

87. Beginning at least 3 years prior to the filing of this complaint, in order to discharge their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course of completing his job duties, which were not reimbursed by Defendants. These expenses include, but are not limited to, uniforms, use of personal cell phones for work purposes, use of personal vehicles without proper mileage reimbursement, and use of personal hand tools for work purposes, including cutters.

88. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest and attorney’s fees and costs, under Labor Code section 2802.

TENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

Representative Claim for PAGA penalties under California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 1771, 1774, 2802, 3700.5)

(Against All Named Defendants and all DOE Defendants)

89. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 88, inclusive, of this Complaint as though fully set forth herein.

90. Pursuant to law, Plaintiff provided the required written notice to the LWDA and Defendants of the specific violations of the California Labor Code that Defendants and DOE defendants have violated and continue to violate.

91. Pursuant to California Labor code section 2699.3, no response was received from the LWDA within 65 days of the postmark date of the above-alleged letter.

92. Plaintiff therefore has exhausted all administrative remedies required of him under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants’ violations of the Labor Code.

93. Pursuant to California Labor Code section 2699, any provisions of the Labor Code

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

6 94. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
7 violator and had one or more of the alleged violations committed against him, and therefore is
8 properly suited to represent the interests of other current and former employees, including all
9 hourly, non-exempt employees who worked for PAPPAS at any of their California locations
10 during the relevant and applicable PAGA period.

11 95. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
12 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
13 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

14 96. Plaintiff therefore has exhausted all administrative remedies required of him under
15 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
16 cause of action and pursue penalties in a representative action for Defendants' violations of the
17 Labor Code.

18 97. California Labor Code section 2699 et seq. imposes penalties upon culpable
19 Defendants for violating the Labor Code.

20 98. California Labor Code section 558 establishes a civil penalty as follows: Any
21 employer or other person action on behalf of an employer who violates, or causes to be violated,
22 a section of this chapter or any provision regulating hours and days of work in any order of the
23 Industrial Welfare Commission (including the "Hours and Days of Work" section of the Wage
24 Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for
25 each underpaid employee for each pay period for which the employee was underpaid ...; (2) for
26 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
27 period for which
28

1 the employee was underpaid ...;

2 99. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted
3 by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
4 seeking individual/victim specific relief or underpaid wages under this particular cause of action.

5 100. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted
6 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
7 the following:

8 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
9 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 1771, 1774, 2802, 3700.5 via
10 2698 and 2699, and any other Labor Codes and Industrial Welfare Commission Wage Order
11 (Order

12 Nos. 4/16) violated based on the facts alleged in this Complaint.

13 101. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
14 costs, and civil penalties on behalf of Plaintiff and other current and former Aggrieved
15 Employees as alleged herein in an amount to be shown according to proof at trial and within the
16 jurisdictional limits of this Court.

17 **ELEVENTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE PERSONNEL RECORDS**

19 **(Plaintiff against all named Defendants and all DOE Defendants)**

20 102. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 101, inclusive, of this Complaint as though fully set forth herein.

22 103. Labor Code section 1198.5 dictates "every current and former employee, or his
23 or her representative, has the right to inspect and receive a copy of the personnel records that
24 the employer maintains relating to the employee's performance or to any grievance concerning
25 the employee."

26 104. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the
27 employer shall make the contents of those personnel records available for inspection to the
28 current or former employee, or his or her representative, at reasonable intervals and at reasonable

1 times...” On information and belief, Defendants failed to provide Plaintiff with personnel
2 records when requested by Plaintiff via letters on December 13, 2023, as required by law.
3 Plaintiff requested his personnel records in accordance with California Labor Code section
4 1198.5(k) on December 13, 2023, via U.S. certified mail.

5 105. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his
6 records within 30 days. As a direct result of Defendants’ violations alleged herein, Plaintiff has
7 suffered and continues to suffer substantial losses related to Defendants' failure to provide
8 personnel records.

9 106. Plaintiff seeks all available remedies for Defendants’ violations including, but not
10 limited penalties, and costs to the extent permitted by law and according to proof at trial.
11 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
12 amount of \$750.00, along with costs and attorney’s fees.

13 **TWELFTH CAUSE OF ACTION**
14 **FAILURE TO PROVIDE PAY RECORDS**

15 **(Plaintiff against all named Defendants and all DOE Defendants)**

16 107. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

18 108. Labor Code section 226 sub-section (b) dictates “an employer...shall afford
19 current and former employees the right to inspect or copy records pertaining to their
20 employment, upon reasonable request to the employer...”

21 109. Moreover, pursuant to sub-section (c) of Labor Code section 226, “an employer
22 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
23 pertaining to a current or former employee shall comply with the request as soon as practicable,
24 but no later than 21 calendar days from the date of the request.” On information and belief,
25 Defendants failed to provide Plaintiff with pay records when requested by Plaintiff via certified
26 letter, on December 13, 2023, and as required by law. Plaintiff requested his pay records in
27 accordance with California Labor Code section 226 on December 13, 2023, via certified mail.
28 Defendants failed to provide Plaintiff with an opportunity to inspect or copy his pay records
within 21 days.

1 110. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered
2 and continues to suffer substantial losses related to Defendants' failure to provide pay records.
3 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the
4 amount of \$750.00, along with costs and attorney's fees.

5 111. Plaintiff seeks all available remedies for Defendants' violations including, but
6 not limited penalties, and costs to the extent permitted by law and according to proof at trial.

7 **THIRTEENTH CAUSE OF ACTION**

8 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

9 **(California Business and Professions Code Section 17200)**

10 **(Plaintiff against Pappas Piping Service INC. and all DOE defendants)**

11 112. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 111, inclusive, of this Complaint as though fully set forth herein.

13 113. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
14 constitute unfair and unlawful business practices under California Business and Professions
15 Code Section 17200, et seq.

16 114. Defendant's violations of California labor laws constitutes a business practice because
17 it was done repeatedly over a significant period of time in a systematic manner that was
18 detrimental to Plaintiff and other similarly situated aggrieved employees.

19 115. For the four years preceding the filing of this action, Plaintiff has suffered damages
20 and request damages and/or restitution of all monies and profits to be disgorged from
21 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
22 this Court.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as follows:

1. For compensatory damages to Plaintiff in an amount subject to proof at trial;
2. For damages for wages not paid to Plaintiff in an amount subject to proof at trial;
3. For damages and penalties under Labor Code Section 203/204/210/226 for Plaintiff in an amount subject to proof at trial;
4. For special, consequential, and liquidated damages to the extent allowed by law;
5. For the imposition of civil penalties and/or statutory penalties;
6. For PAGA penalties to the extent permitted pursuant to the Labor Code and Wage Order including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 1771, 1774, 2802, 3700.5, and 2699.
7. For an award of liquidated damages to the extent permissible by Labor Code § 1194.2;
8. For restitution and disgorgement for all unfair business practices by corporate Defendant Pappas Piping Service Inc. against Plaintiff in an amount subject to proof at trial;
9. For an order enjoining Defendant Pappas Piping Service Inc. from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
11. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.

1 12. For maximum civil penalties available under the Labor Code and applicable Wage
2 Order against Defendants as described more particularly in the Complaint and the
3 representative PAGA claims;

4 13. For all remedies available to Plaintiff under the applicable Wage Order and the
5 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
6 liquidated damages, damages, penalties, and waiting time penalties according to proof
7 to the extent permitted by law;

8 14. For all interest as allowed by law;

9 15. For all costs and disbursements incurred in this suit;

10 16. Reasonable attorney's fees where available by law, including but not limited to,
11 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,;
12 and/or other applicable laws; and;

13 17. For such other and further relief as this Court may deem proper.
14

15 DATED: March 13, 2024

MESSRELIAN LAW INC.

17 By 
18 Harout Messrelian, Esq.
19 Attorneys for Plaintiff Juan Dominguez

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
22

23
24 DATED: March 13, 2024

MESSRELIAN LAW INC.

25 By 
26 Harout Messrelian, Esq.
27 Attorneys for Plaintiff Juan Dominguez
28

Harout Messrelian, Esq. (272020)

Messrelian Law Inc., 500 N. Central Ave., Suite 840, Glendale, CA 91203

TELEPHONE NO.: 818-484-6531

FAX NO. (Optional): 818-956-1983

E-MAIL ADDRESS: hm@messrelianlaw.com

ATTORNEY FOR (Name): Plaintiff

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

STREET ADDRESS: 191 N. First St.

MAILING ADDRESS:

CITY AND ZIP CODE: San Jose, CA 95113

BRANCH NAME: Downtown Superior Court

CASE NAME:

Dominguez v. Pappas Piping Service, Inc et al.

Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/13/2024 4:46 PM
Reviewed By: M. Suarez
Case #24CV433074
Envelope: 14696019

CIVIL CASE COVER SHEET

☒ **Unlimited**
(Amount
demanded
exceeds \$25,000)

☐ **Limited**
(Amount
demanded is
\$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder

Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER
24CV433074

JUDGE:

DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)☐ Uninsured motorist (46)Other PI/PD/WD (Personal Injury/Property
Damage/Wrongful Death) Tort☐ Asbestos (04)☐ Product liability (24)☐ Medical malpractice (45)☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)☐ Civil rights (08)☐ Defamation (13)☐ Fraud (16)☐ Intellectual property (19)☐ Professional negligence (25)☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)☐ Rule 3.740 collections (09)☐ Other collections (09)☐ Insurance coverage (18)☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse
condemnation (14)☐ Wrongful eviction (33)☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)☐ Residential (32)☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)☐ Petition re: arbitration award (11)☐ Writ of mandate (02)☐ Other judicial review (39)Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400–3.403)☐ Antitrust/Trade regulation (03)☐ Construction defect (10)☐ Mass tort (40)☐ Securities litigation (28)☐ Environmental/Toxic tort (30)☐ Insurance coverage claims arising from the
above listed provisionally complex case
types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)☐ Other petition (not specified above) (43)2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:a. ☐ Large number of separately represented partiesd. ☒ Large number of witnessesb. ☐ Extensive motion practice raising difficult or novel
issues that will be time-consuming to resolvee. ☐ Coordination with related actions pending in one or more
courts in other counties, states, or countries, or in a federal
courtc. ☒ Substantial amount of documentary evidencef. ☐ Substantial postjudgment judicial supervision3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 13 - wage and hour; PAGA; BP 17200

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 13, 2024

Harout Messrelian, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
191 N. FIRST STREET
SAN JOSE, CA 95113-1090**

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/15/2024 4:10 PM
Reviewed By: R. Walker
Case # 24CV433074
Envelope: 14722794**

TO: FILE COPY

RE: **Dominguez v. Pappas Piping Service, Inc., et al.**
CASE NUMBER: **24CV433074**

**ORDER DEEMING CASE COMPLEX AND STAYING DISCOVERY
AND RESPONSIVE PLEADING DEADLINE**

WHEREAS, the Complaint was filed by Plaintiff **Juan Dominguez** ("Plaintiff") in the Superior Court of California, County of Santa Clara, on **March 13, 2024** and assigned to Department 7 (Complex Civil Litigation), the **Honorable Charles F. Adams** presiding, pending a ruling on the complexity issue;

IT IS HEREBY ORDERED that:

The Court determines that the above-referenced case is **COMPLEX** within the meaning of California Rules of Court 3.400. The matter remains assigned, for all purposes, including discovery and trial, to Department 7 (Complex Civil Litigation), the **Honorable Charles F. Adams** presiding.

The parties are directed to the Court's local rules and guidelines regarding electronic filing and to the Complex Civil Guidelines, which are available on the Court's website.

Pursuant to California Rules of Court, Rule 3.254, the creation and maintenance of the Master Service List shall be under the auspices of (1) Plaintiff **Juan Dominguez**, as the first-named party in the Complaint, and (2) the first-named party in each Cross-Complaint, if any.

Pursuant to Government Code section 70616(b), each party's complex case fee is due within ten (10) calendar days of this date.

Plaintiff shall serve a copy of this Order on all parties forthwith and file a proof of service within seven (7) days of service.

Any party objecting to the complex designation must file an objection and proof of service within ten (10) days of service of this Order. Any response to the objection must be filed within seven (7) days of service of the objection. The Court will make its ruling on the submitted pleadings.

The Case Management Conference remains set for **August 15, 2024 at 2:30 p.m. in Department 7** and all counsel are ordered to attend.

Counsel for all parties are ordered to meet and confer in person at least 15 days prior to the First Case Management Conference and discuss the following issues:

1. Issues related to recusal or disqualification;
2. Issues of law that, if considered by the Court, may simplify or further resolution of the case, including issues regarding choice of law;
3. Appropriate alternative dispute resolution (ADR), for example, mediation, mandatory settlement conference, arbitration, mini-trial;
4. A plan for preservation of evidence and a uniform system for identification of documents throughout the course of this litigation;
5. A plan for document disclosure/production and additional discovery; which will generally be conducted under court supervision and by court order;
6. Whether it is advisable to address discovery in phases so that information needed to conduct meaningful ADR is obtained early in the case (counsel should consider whether

- they will stipulated to limited merits discovery in advance of certification proceedings), allowing the option to complete discovery if ADR efforts are unsuccessful;
7. Any issues involving the protection of evidence and confidentiality;
 8. The handling of any potential publicity issues;

Counsel for Plaintiff is to take the lead in preparing a Joint Case Management Conference Statement to be filed 5 calendar days prior to the First Case Management Conference, and include the following:

1. a brief objective summary of the case;
2. a summary of any orders from prior case management conferences and the progress of the parties' compliance with said orders;
3. significant procedural and practical problems that may likely be encountered;
4. suggestions for efficient management, including a proposed timeline of key events; and
5. any other special consideration to assist the court in determining an effective case management plan.

To the extent the parties are unable to agree on the matters to be addressed in the Joint Case Management Conference Statement, the positions of each party or of various parties should be set forth separately and attached to this report as addenda. The parties are encouraged to propose, either jointly or separately, any approaches to case management they believe will promote the fair and efficient handling of this case. The Court is particularly interested in identifying potentially dispositive or significant threshold issues the early resolution of which may assist in moving the case toward effective ADR and/or a final disposition.

STAY ON DISCOVERY AND RESPONSIVE PLEADING DEADLINE Pending further order of this Court, the service of discovery and the obligation to respond to any outstanding discovery is stayed. However, Defendant(s) shall file a Notice of Appearance for purposes of identification of counsel and preparation of a service list. The filing of such a Notice of Appearance shall be without prejudice to the later filing of a motion to quash to contest jurisdiction. Parties shall not file or serve responsive pleadings, including answers to the complaint, motions to strike, demurrers, motions for change of venue and cross-complaints until a date is set at the First Case Management Conference for such filings and hearings.

This Order is issued to assist the Court and the parties in the management of this "Complex" case through the development of an orderly schedule for briefing and hearings. This Order shall not preclude the parties from continuing to informally exchange documents that may assist in their initial evaluation of the issues presented in this Case.

Plaintiff shall serve a copy of this Order on all the parties in this matter forthwith.

SO ORDERED.

Date: 3/14/2024 11:42:58 AM



Hon. Charles F. Adams
Judge of the Superior Court

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line, (408) 882-2690 or the Voice/TDD California Relay Service, (800) 735-2922.

CIVIL LAWSUIT NOTICE

Superior Court of California, County of Santa Clara
191 North First St., San José, CA 95113

CASE NUMBER:

24CV433074

PLEASE READ THIS ENTIRE FORM

PLAINTIFF (the person suing): Within 60 days after filing the lawsuit, you must serve each Defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANT (The person sued): You must do each of the following to protect your rights:

1. You must file a **written response** to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within **30 days** of the date you were served with the *Summons* and *Complaint*;
2. You must serve by mail a copy of your written response on the Plaintiff's attorney or on the Plaintiff if Plaintiff has no attorney (to "serve by mail" means to have an adult other than yourself mail a copy); and
3. You must attend the first Case Management Conference.

Warning: If you, as the Defendant, do not follow these instructions, you may automatically lose this case.

RULES AND FORMS: You must follow the California Rules of Court and the Superior Court of California, County of <_CountyName_> Local Civil Rules and use proper forms. You can obtain legal information, view the rules and receive forms, free of charge, from the Self-Help Center at 201 North First Street, San José (408-882-2900 x-2926).

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.

Your Case Management Judge is: Hon. Charles F. Adams Department: 7

The 1st CMC is scheduled for: (Completed by Clerk of Court)

Date: 8/15/24 Time: 2:30pm in Department: 7

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)

Date: Time: in Department:

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civil/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.