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individually, and on behalf of all others
similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

JULIO MIRANDA, an individual, on behalf of
himself and all others similarly situated and
aggrieved,

Plaintiff,

vs.

JOHN AGUILAR & COMPANY, INC. DBA
VERNON TRANSPORTATION COMPANY,
a California Corporation; and DOES 1 to 10,
inclusive,

Defendants.

Case No.: CVRI2403409

**FIRST AMENDED CLASS AND PAGA
REPRESENTATIVE ENFORCEMENT ACTION
COMPLAINT**

- (1) FAILURE TO PAY MINIMUM WAGES;**
- (2) FAILURE TO FURNISH TIMELY AND
ACCURATE WAGE STATEMENTS;**
- (3) FAILURE TO REIMBURSE NECESSARY,
BUSINESS-RELATED EXPENSES;**
- (4) FAILURE TO PAY ALL WAGES OWED
UPON SEPARATION;**
- (5) VIOLATION OF CALIFORNIA'S UNFAIR
COMPETITION LAW ("UCL"), BUS. &
PROF. CODE §§ 17200; *ET SEQ.*; and**
- (6) CIVIL PENALTIES FOR VIOLATIONS OF
LABOR CODE, PURSUANT TO
CALIFORNIA'S PRIVATE ATTORNEYS
GENERAL ACT ("PAGA"), §§ 2698, *ET SEQ.***

DEMAND FOR JURY TRIAL

1 Plaintiff JULIO MIRANDA (“Plaintiff” or “MIRANDA”), on behalf of himself and all others
2 similarly situated and aggrieved, by and through his undersigned attorneys, files this Class Action and
3 Private Attorneys General Act of 2004 (“PAGA”) Representative Action Complaint against Defendants
4 JOHN AGUILAR & COMPANY, INC. doing business as VERNON TRANSPORTATION
5 COMPANY, a California Corporation; and DOES 1 through 10 inclusive (collectively with the
6 aforementioned entities, “Defendants”), respectfully alleges as follows:

7 **I. NATURE OF THE ACTION**

8 1. This is a class action and PAGA action for wage and hour Labor Code violations arising out
9 of, among other things, Defendants’ failure to pay minimum wages for all compensable hours worked;
10 failure to furnish timely, accurate wage statements; failure to maintain required payroll records; failure
11 to pay all wages owed upon separation; and failure to reimburse all necessary, business-related
12 expenses incurred in the course of employment.

13 2. As more fully set forth herein, Defendants failed to pay minimum wages, including but not
14 limited to all nonproductive time for rest breaks, communication regarding work-related matters, and
15 time worked off-the-clock before shifts started, during meal periods, and after shifts ended; failed to
16 issue timely and accurate wage statements; failed to maintain accurate payroll records; failed to pay all
17 wages owed upon separation; failed to reimburse all necessary, business-related expenses; violated
18 California’s Unfair Competition Law, Business and Professions Code, sections 17200; *et seq.* and for
19 civil penalties for the aforementioned violations of the Labor Code, pursuant to California’s Private
20 Attorneys General Act of 2004 (“PAGA”) §§ 2698, *et seq.*

21 3. Plaintiff seeks to represent the following Class¹:

22 All current and former employee drivers residing in California who worked
23 for JOHN AGUILAR & COMPANY, INC. doing business as VERNON
24 TRANSPORTATION COMPANY at any time beginning four (4) years and
178 days² prior to the filing of the Complaint through the present (the “Class

25 ¹ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class
26 description with greater particularity or further division into subclasses or limitation to particular issues.
27 Subsumed within this Class are all “Aggrieved Persons,” though limited to the relevant liability period
under PAGA.

28 ² Under Judicial Council Emergency Rule 9, “the statutes of limitations and repose for civil causes of
action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.”

Period”).

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the entire action by virtue of the fact that this is a civil action wherein the matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of the Court. The acts and omissions complained of in this action took place in the State of California, and at least one defendant resides in the state of California. Venue is proper pursuant to California Code of Civil Procedure section 395.5, because this is a class action, the acts and/or omissions complained of took place, in part, within the venue of this Court.

5. A substantial amount of Plaintiff JULIO MIRANDA’S work for Defendants took place within Riverside County. All of this work that took place within Riverside County that Plaintiff JULIO MIRANDA performed involved the acts and/or omissions complained of in this Complaint, including for instance, Defendants’ failure to pay minimum wages for time communicating via text and phone calls regarding work-related matters while off-the-clock, time worked off-the-clock before shifts started, during meal periods, and after shifts ended, and for waiting time. *See Owens v. Paraco, Inc.* (1958) 160 Cal.App.2d 824, 825–26 (holding that venue in a wage and hour case was proper in the county where the plaintiff performed the work even though the defendant’s principal place of business was elsewhere).

6. Plaintiff alleges that more than two-thirds of all members of the proposed Class in the aggregate are citizens of California, so federal jurisdiction under the Class Action Fairness Act does not exist. Further, Plaintiff alleges that the proposed Class is estimated to be 100% California residents, as that is how the Class is defined.

III. PARTIES

7. Plaintiff JULIO MIRANDA was, at all relevant times, a citizen of the State of California. Defendants employed Plaintiff MIRANDA as an employee truck driver for approximately 1.1 years, from December 28, 2022 through approximately February 8, 2024, which is during the Class Period as alleged herein.

8. Upon information and belief, Defendant John Aguilar & Company, Inc. doing business as Vernon Transportation Company, is a California Corporation organized in the State of California with

1 its principal place of business at 1505 Navy Dr., Stockton, California 95206. Defendant is doing
2 business in the State of California, operating in the State of California, and is availing itself of the
3 privileges and obligations associated therewith. Upon information and belief, Defendants John Aguilar
4 & Company, Inc. doing business as Vernon Transportation Company (hereafter, "JOHN AGUILAR")
5 have agreements with various customers to provide those customers services within Riverside County
6 that require JOHN AGUILAR to transport property to specified locations within California as well as
7 extraterritorially. JOHN AGUILAR operates a yard in Stockton, California; Lynwood, California; and
8 Riverside, California, and has conducted and transacted business at all times relevant to this lawsuit in,
9 among other places, the County of Riverside in the State of California.

10 9. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation
11 in the conduct alleged herein, of the Defendants sued as Does 1-10, inclusive, but is informed and
12 believes that said Defendants are legally responsible for the conduct alleged herein and therefore sues
13 these Defendants by such fictitious names. Plaintiff will seek leave to amend this Complaint to allege
14 both the true names and capacities of the Doe Defendants when ascertained. Plaintiff is informed and
15 believes, and thereon alleges, that at all times mentioned herein, all Defendants, including Doe
16 Defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint
17 venturers of their co-Defendants and were, as such, acting within the course and scope of said agency,
18 employment, partnership, joint venture, conspiracy, or enterprise, and with the express and/or implied
19 permission, knowledge, consent, authorization and ratification of their co-defendants; however, each of
20 these allegations are deemed "alternative" theories whenever not doing so would result in a
21 contradiction with other allegations. Plaintiff is informed and believes that each Defendant acted in all
22 respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business
23 plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally
24 attributable to each of the other Defendant.

25 **IV. FACTS COMMON TO ALL CAUSES OF ACTION**

26 10. Defendants are a trucking logistics company that delivers bulk sugar out-of-state to
27 customers' locations in California and extraterritorially.

28 11. At all times during the Class Period, Defendants employed Plaintiff and Class Members as

1 hourly-paid truck drivers.

2 12. At all times during the Class Period, Defendants employed Plaintiff and the Class as
3 employee drivers who were engaged in transporting bulk sugar from Defendants' locations to the
4 customers' locations throughout California and extraterritorially.

5 13. At all times during the Class Period, Plaintiff and Class Members spent time working off
6 the clock, including time communicating through the phone regarding work-related matters while off-
7 the-clock, time worked off-the-clock before shifts started, during meal periods, and after shifts ended.

8 14. At all times during the Class Period, Defendants failed to pay Plaintiff and Class Members
9 for all hours worked, namely for time communicating work-related matters while off-the-clock, time
10 worked off-the-clock before shifts started, during meal periods, and after shifts ended. This unrecorded
11 compensable time occurred on many shifts that Plaintiff worked, because he abided by Defendants'
12 noncompliant policy. In addition, Plaintiff and Class Members spent time working after clocking out
13 for meal periods and at the end of their shifts, performing tasks to wrap up their workday and
14 communicating regarding work-related matters. Plaintiff and Class Members would also be required to
15 work throughout the entirety of their meals, but were not compensated for that time.

16 15. So, all of this off-the-clock time was neither recorded nor ultimately compensated, even
17 though all of that time is compensable. Thus, Defendants do not maintain required records, do not issue
18 accurate paystubs, nor do Defendants pay Plaintiff and Class Members minimum wage in accordance
19 with California law.

20 16. Defendants fail to provide Plaintiff and Class Members timely, accurate wage statements
21 that reflect their total number of compensable hours worked. Accordingly, Defendants failed to provide
22 accurate wage statements to Plaintiff and Class Members identifying all hours worked and all rates in
23 effect during the pay period.

24 17. At all times during the Class Period, Defendants failed to reimburse Plaintiff and Class
25 Members for the necessary, business-related expenses they incurred, including but not limited to, cell
26 phone service charges. Class Members were required to use their cell phones during the course of
27 employment to clock in and out, navigate to their delivery destinations, and communicate with dispatch.
28 Defendants provided no alternative option for navigating nor communicating with dispatch while off-

1 the-clock or while en route, all aspects of which Plaintiff and Class Members were required to do in
2 discharging their duties. As such, Plaintiff and Class Members were required to use their personal cell
3 phones to carry out those functions, so Defendants should have reimbursed Plaintiff and Class Members
4 for their cell phone service costs.

5 18. As the payor of Plaintiff and Class Members' paychecks and reimbursements, Defendants
6 knew that Plaintiff and Class Members were not reimbursed for the use of their personal cell phones,
7 while also knowing that Plaintiff and Class Members were using their personal cell phones to clock in
8 and out, communicate with dispatch, and navigate along their routes. Further, "strong public policy"
9 favoring indemnification of these expenses does not require employees to request reimbursement of
10 said expenses when an employer knows its employees are incurring these expenses in discharging their
11 duties.

12 19. At all times during the Class Period, Defendants failed to pay Plaintiff and Class Members
13 who separated, whether voluntarily or involuntarily, from Defendants all of those Plaintiff and Class
14 Members' final wages upon separation. The outstanding final wages owed are in the form of unpaid
15 minimum wages accrued over time as described herein.

16 20. Defendants failed to pay Plaintiff all wages due at the time of his involuntary separation on
17 or around February 8, 2024. Because of the nature of his separation, all wages were owed to Plaintiff
18 the same day of separation but were not paid on that day. Those unpaid wages relate to the unpaid
19 minimum wages described herein, which Defendants willfully failed to pay since Defendants knew the
20 hours worked each shift were not recorded pursuant to Defendants' policy regarding when Plaintiff and
21 Class Members are required to clock in and out.

22 21. Those unpaid wages relate to the unpaid minimum wages described herein, which
23 Defendants willfully failed to pay since Defendants knew the hours worked each shift were not
24 recorded pursuant to Defendants' policy regarding when Aggrieved Persons are required to clock in and
25 out.

26 22. Defendants' conduct, as alleged herein, has caused Plaintiff and Class Members damages
27 including, but not limited to, loss of wages and compensation. Defendants are liable to Plaintiff and the
28 Class for failing to pay minimum wages; failure to provide timely and accurate wage statements; failing

1 to maintain all required payroll records; failing to pay all wages owed upon separation; failing to
2 reimburse all necessary business-related expenses; and unfair competition.

3 23. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated
4 employees who all have been exposed to, have suffered, and/or were permitted to work under,
5 Defendants' unlawful employment practices as alleged herein.

6 24. At all relevant times, Defendants have been, and continue to be, a "person" as that term is
7 defined under California Business & Professions Code section 17021 and California Labor Code
8 sections 1-29.5.

9 25. Plaintiff has complied with the procedures for bringing suit specified in California Labor
10 Code section 2699.3. By letter dated December 21, 2023, Plaintiff gave written notice by certified mail
11 to the Labor and Workforce Development Agency ("LWDA"), and Defendants, of the specific
12 provisions of the Labor Code alleged to have been violated, including the facts and theories to support
13 the alleged violations.

14 **V. CLASS AND REPRESENTATIVE ACTION ALLEGATIONS**

15 26. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated
16 employees who all have been exposed to, have suffered, and/or were permitted to work under
17 Defendants' unlawful employment practices as alleged herein.

18 27. Plaintiff brings his first through seventh causes of action on behalf of himself and the
19 following Class³ of persons defined as follows:

20 All current and former employee drivers residing in California who worked
21 for JOHN AGUILAR & COMPANY, INC. doing business as VERNON
22 TRANSPORTATION COMPANY at any time beginning four (4) years and
23 178 days prior to the filing of the Complaint through the present (the "Class
24 Period").

25 28. This action has been brought and may be properly maintained as a class action pursuant to
26 the provisions of California Code of Civil Procedure section 382 (hereinafter "section 382") and other

27 ³ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class description
28 with greater particularity or further division into subclasses, to propose or eliminate subclasses, or further limitation
to particular issues, when presented to the Court at the appropriate time, in response to facts learned through
discovery, legal arguments advanced by Defendants, or otherwise.

1 applicable law.

2 29. **Numerosity of the Class:** Pursuant to section 382, Class Members are so numerous that
3 their individual joinder is impracticable. Plaintiff estimates, on information and belief, that there are at
4 least 100 current and former similarly situated employee Class Members of Defendants employed as
5 drivers in California during the Class Period. The precise number of Class Members and their
6 addresses are known to Plaintiff or will be known to Plaintiff through discovery. Class Members may
7 be notified of the pendency of this action by mail, electronic mail, the Internet, or published notice.

8 30. **Existence of Predominance of Common Questions of Fact and Law:** Pursuant to
9 section 382, common questions of law and fact exist as to all Class Members. These questions
10 predominate over any questions affecting only individual Class Members. These common legal and
11 factual questions include:

- 12 a. Whether Plaintiff and each Class Member were not paid minimum wage for each hour
13 worked or part thereof during which they were required to perform acts at the direction and
14 for the benefit of Defendants;
- 15 b. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and Class
16 Members who worked as drivers in California for the total compensable hours worked
17 during the Class Period;
- 18 c. Whether Defendants maintained accurate time records of all hours worked in accordance
19 with IWC Wage Order No. 9-2001(7);
- 20 d. Whether Defendants violated California Labor Code section 226(a) by failing to issue
21 accurate itemized wage statements to Plaintiff and Class Members that included all
22 compensable hours worked among other hourly wages earned throughout the Class Period;
- 23 e. Whether Defendants violated California Labor Code section 226 by issuing inaccurate
24 itemized wage statements to Plaintiff and Class Members that failed to accurately state the
25 total hours worked, to the detriment of Plaintiff and the Class;
- 26 f. Whether Defendants violated California Labor Code section 226 by failing to timely
27 produce Plaintiff and Class Members' payroll records upon written request;
- 28 g. Whether Defendants violated California Labor Code sections 218.5, 1197, and 1198 by

1 failing to compensate Plaintiff and Class Members for those acts Defendants required
2 Plaintiff and Class Members to perform for the benefit of Defendants;

3 h. Whether Defendants violated California Labor Code section 2802 by failing to reimburse
4 Plaintiff and Class Members for all necessary, business-related expenses they incurred;

5 i. Whether Defendants engaged in unfair practices and violated California Business and
6 Professions Code, sections 17200; *et seq.* by failing to reimburse Plaintiff and Class
7 Members with all necessary, business-related expenses; and

8 j. The nature and extent of classwide injury and measure of damages for the injury.

9 31. **Typicality**: Plaintiff's claims are typical of the claims of the members of the Class he
10 represents because Plaintiff, as a driver of Defendants, was exposed and subjected to the same unlawful
11 business practices as other drivers employed by Defendants during the Class Period. Plaintiff and the
12 members of the Class he represents sustained the same types of damages and losses.

13 32. **Adequacy**: Plaintiff is an adequate representative of the Class he seeks to represent
14 because his interests do not conflict with the interests of the members of the Class Plaintiff seeks to
15 represent. Plaintiff has retained counsel competent and experienced in complex class action litigation
16 and Plaintiff intends to prosecute this action vigorously. The interests of Class Members will be fairly
17 and adequately protected by Plaintiff and his counsel.

18 33. **Superiority and Substantial Benefit**: The class action is superior to other available means
19 for the fair and efficient adjudication of Plaintiff's and Class Members' claims. The damages suffered
20 by each individual Class Member may be limited. Damages of such magnitude are small given the
21 burden and expense of individual prosecution of the complex and extensive litigation necessitated by
22 Defendants' conduct. Further, it would be virtually impossible for Class Members to redress the
23 wrongs done to them on an individual basis. Even if Class Members themselves could afford such
24 individual litigation, the court system could not. Individualized litigation increases the delay and
25 expense to all parties and the court system, due to the complex legal and factual issues of the case. By
26 contrast, the class action device presents far fewer management difficulties, and provides the benefits of
27 single adjudication, economy of scale, and comprehensive supervision by a single court.

28 34. The Class should also be certified because:

1 a. The prosecution of separate actions by individual Class Members would create a
2 risk of inconsistent or varying adjudications for individual Class Members, which would
3 establish incompatible standards of conduct for Defendants;

4 b. The prosecution of separate actions by individual Class Members would create a
5 risk of adjudication with respect to them, which would, as a practical matter, be dispositive
6 of the interests of the other Class Members not parties to the adjudications, or substantially
7 impair or impede their ability to protect their interests; and

8 c. Questions of law and of fact common to Class Members predominate over any
9 questions affecting only individual members.

10 **VI. FIRST CAUSE OF ACTION**

11 **Failure to Pay Minimum Wages**

12 **Violation of California Labor Code §§ 510, 1194, 1194.2, and 1197; Wage Order No. 9-2001, § 4**

13 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

14 35. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

15 36. California Labor Code section 510 provides in pertinent part, “Eight hours of labor
16 constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of
17 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one
18 workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay
19 for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less
20 than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on
21 any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
22 pay of an employee.”

23 37. California Labor Code section 1197 provides in pertinent part that “The minimum wage for
24 employees fixed by the commission or by any applicable state or local law, is the minimum wage to be
25 paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

26 38. California Labor Code section 1194(a) provides, “Notwithstanding any agreement to work
27 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
28 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of

1 the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable
2 attorney's fees, and costs of suit."

3 39. California Labor Code section 1194.2 provides in pertinent part, "In any action under
4 Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the
5 minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to
6 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon."

7 40. Pursuant to IWC Wage Order No. 9-2001, "hours worked" includes "the time during which
8 an employee is subject to the control of an employer, and includes all the time the employee is suffered
9 or permitted to work, whether or not required to do so."

10 41. Pursuant to California Labor Code section 1182.12(b)(1) and IWC Wage Order No. 9-
11 2001(4), Plaintiff and Class Members who worked for JOHN AGUILAR, an employer who employs at
12 least 26 employees, were entitled to receive not less than twelve dollars (\$12) per hour through
13 December 31, 2019, then thirteen dollars (\$13) per hour through December 31, 2020, fourteen dollars
14 (\$14) per hour through December 31, 2021, then fifteen dollars (\$15.00) per hour through December
15 31, 2022, and then regardless of employer size, fifteen dollars and fifty cents (\$15.50) per hour
16 beginning January 1, 2023 through December 31, 2023, and then sixteen dollars (\$16) per hour and
17 thereafter.

18 42. At all times relevant during the Class Period, under the provisions of Wage Order No. 9-
19 2001, Plaintiff and each Class Member should have received not less than the minimum wage in a sum
20 according to proof for the time worked, but were not compensated.

21 43. For all hours that Plaintiff and Class Members worked, they are entitled to not less than the
22 California minimum wage and, pursuant to California Labor Code section 1194.2(a) liquidated
23 damages in an amount equal to the unpaid minimum wages and interest thereon. Pursuant to California
24 Labor Code section 1194, Plaintiff and Class Members are also entitled to their attorneys' fees, costs,
25 and interest according to proof.

26 44. At all times relevant during the Class Period, Defendants willfully failed and refused, and
27 continue to willfully fail and refuse, to pay Plaintiff and Class Members the amounts owed.

28 45. Defendants' unlawful conduct alleged herein occurred in the course of employment of

1 Plaintiff and all other similarly situated drivers, and Defendants have done so continuously throughout
2 the filing of this Complaint.

3 46. As a direct and proximate result of Defendants' violation of California Labor Code sections
4 510 and 1197, Plaintiff and Class Members have suffered irreparable harm and money damages
5 entitling them to damages or restitution. Plaintiff, on behalf of himself and all others similarly situated,
6 seeks damages and all other relief allowable including all wages due while working as Defendants'
7 drivers, attorneys' fees, liquidated damages, prejudgment interest, and as to those employees no longer
8 employed by Defendants, waiting time penalties pursuant to California Labor Code section 200, *et seq.*

9 47. Plaintiff and Class Members are entitled to back pay, pre-judgment interest, liquidated
10 damages, statutory penalties, and attorneys' fees and costs. Plaintiff and former Class Members are
11 entitled to waiting time penalties pursuant to California Labor Code sections 203 and 1197.1.

12 **VII. SECOND CAUSE OF ACTION**

13 **Failure to Furnish Timely and Accurate Wage Statements**

14 **Upon Payment of Wages in Violation of Cal. Labor Code § 226**

15 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

16 48. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as
17 if fully set forth herein.

18 49. Labor Code section 226(a) sets forth reporting requirements for employers when they pay
19 wages, as follows: "Every employer shall . . . at the time of each payment of wages, furnish his or her
20 employees . . . an itemized statement in writing showing (1) gross wages earned, (2) total hours worked
21 by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and
22 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that
23 all deductions made on written orders of the employee may be aggregated and shown as one item, (5)
24 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
25 the employee and only the last four digits of his or her social security number or an employee
26 identification number other than a social security number, (8) the name and address of the legal entity
27 that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of
28 Section 1682, the name and address of the legal entity that secured the services of the employer, and (9)

1 all applicable hourly rates in effect during the pay period and the corresponding number of hours
2 worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary
3 services employer as defined in Section 201.3, the rate of pay and the total hours worked for each
4 temporary services assignment. The deductions made from payment of wages shall be recorded in ink
5 or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement
6 and the record of the deductions shall be kept on file by the employer for at least three years at the place
7 of employment or at a central location within the State of California. For purposes of this subdivision,
8 “copy” includes a duplicate of the itemized statement provided to an employee or a computer-generated
9 record that accurately shows all of the information required by this subdivision”

10 50. Labor Code section 226(b) provides that “[a]n employer that is required by this code or any
11 regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford
12 current and former employees the right to inspect or receive a copy of records pertaining to their
13 employment, upon reasonable request to the employer. . . .”

14 51. Labor Code section 226(e) provides: “An employee suffering injury as a result of a
15 knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to
16 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
17 violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
18 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an
19 award of costs and reasonable attorney’s fees.”

20 52. For purposes of Labor Code section 226(e), subsection (3) provides that, “a “knowing and
21 intentional failure” does not include an isolated and unintentional payroll error due to a clerical or
22 inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a
23 relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance
24 with a set of policies, procedures, and practices that fully comply with this section.”

25 53. Defendants failed to accurately record all rates of pay in effect during the pay period.
26 Defendants’ failure to provide Plaintiff and Class Members with accurate itemized wage statements
27 during the Class Period has caused Plaintiff and Class Members to incur economic damages in that they
28 were not aware that they were owed and not paid compensation for compensable time. Plaintiff and

1 Class Members were not compensated for this work, and for all other hours worked without pay. This
2 alleged failure was repeated, not an isolated incident. For instance, on all of Plaintiff's paystubs within
3 the statutory period under section 226, they do not show all hours worked. Plaintiff's and Class
4 Members' paystubs failed to reflect all time they actually worked based on the compensable time
5 worked prior to clocking in and after clocking out, pursuant to Defendants' noncompliant timekeeping
6 and compensation policies. Defendants' noncompliant timekeeping and compensation policies resulted
7 in repeated wage statement violations, and as such, were not an isolated failure. Accordingly, the
8 alleged wage statement violations were both knowing and intentional.

9 54. Plaintiff and Class Members were damaged by these failures because, among other things,
10 the failures hindered Plaintiff and the Class from determining the amounts of wages actually owed to
11 them.

12 55. Plaintiff and Class Members request recovery of Labor Code section 226(e) penalties
13 according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code section 226(e),
14 in a sum as provided by the Labor Code and/or other statutes.

15 **VIII. THIRD CAUSE OF ACTION**

16 **Failure to Reimburse All Necessary Business-Related Expenses**

17 **Violation of California Labor Code § 2802**

18 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

19 56. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth fully herein.

20 57. California Labor Code section 2802 provides that "An employer shall indemnify his or her
21 employee for all necessary expenditures or losses incurred by the employee in direct consequence of the
22 discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
23 unlawful unless the employee, at the time of obeying the directions, believed them to be unlawful."

24 58. During the applicable statutory period, Plaintiff and Class Members incurred necessary
25 expenditures and losses in direct consequence of the discharge of their employment duties and their
26 obedience to the directions of Defendants, Defendants did not reimburse Plaintiff and Class Members
27 for these expenditures or losses. Such expenses include, but are not limited to, expenses for cellular
28 phone service.

1 59. Defendants have failed to fully reimburse Plaintiff and Class Members for necessary
2 business-related expenses and losses.

3 60. Plaintiff and Class Members are entitled to recover their necessary unreimbursed business-
4 related expenses and losses incurred during the course and scope of their employment, plus interest
5 accrued from the date on which the employee incurred the necessary expenditures at the same rate as
6 judgments in civil actions in the State of California, pursuant to California Labor Code section 2802.

7 **IX. FOURTH CAUSE OF ACTION**

8 **Failure to Pay All Wages Owed at Separation**

9 **Violation of California Labor Code §§ 201–203**

10 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

11 61. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

12 62. Labor Code section 201 provides, in relevant part, “[I]f an employer discharges an
13 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

14 63. Labor Code section 202 provides, in relevant part, “[I]f an employee not having a written
15 contract for a definite period quits his or her employment, his or her wages shall become due and
16 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of
17 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
18 quitting.”

19 64. Section 203 of the California Labor Code provides that if an employer willfully fails to pay
20 compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the
21 employer is liable for penalties in the form of continued compensation up to thirty (30) work days.

22 65. So, California Labor Code sections 201 and 202 require Defendants to pay all
23 compensation due and owing to former drivers at or around the time employment is terminated.
24 Section 203 of the California Labor Code provides that if an employer willfully fails to pay
25 compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the
26 employer is liable for penalties in the form of continued compensation of up to thirty (30) work days.

27 66. At all times relevant during the Class Period, Plaintiff and Class Members were employees
28 of Defendants covered by California Labor Code section 203.

1 67. Pursuant to Labor Code section 201, upon Plaintiff's and the Class Members' separation
2 dates, Defendants were required to pay Plaintiff and the Class Members all wages earned.

3 68. Plaintiff and Class Members were not paid at all for their work that was compensable.

4 69. At the time of Plaintiff's and the Class Members' respective separation dates, Plaintiff and
5 Class Members had unpaid wages. Defendants willfully failed to pay Plaintiff and other members of
6 the Class who are no longer employed by Defendants for their uncompensated hours, in the form of rest
7 breaks and nonproductive time upon their separation from employment with Defendants as required by
8 California Labor Code sections 201 and 202. Thus, in violation of Labor Code section 201, Defendants
9 failed to pay Plaintiff and the Class Members the full amount of wages due and owing them, in amounts
10 to be proven at the time of trial, but in excess of the jurisdictional minimum of this Court.

11 70. Defendants willfully failed to pay Plaintiff and former Class Members for their
12 uncompensated hours upon their termination or separation from employment with Defendants as
13 required by California Labor Code sections 201 and 202. As a result, Defendants are liable to Plaintiff
14 and other former Class Members for waiting time penalties amounting to thirty (30) days' wages for
15 Plaintiff and each such Class Member pursuant to California Labor Code section 203.

16 **X. FIFTH CAUSE OF ACTION**

17 **Violation of California's Unfair Competition Law,**

18 **Bus. & Prof. Code §§ 17200; *et seq.***

19 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

20 71. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

21 72. Section 17200 of the California Business and Professions Code (the "UCL") prohibits any
22 unlawful, unfair, or fraudulent business practices.

23 73. Through their action alleged herein, Defendants have engaged in unfair competition within
24 the meaning of the UCL. Defendants' conduct, as alleged herein, constitutes unlawful, unfair, and/or
25 fraudulent business practices under the UCL.

26 74. Defendants' unlawful conduct under the UCL includes, but is not limited to, violating the
27 statutes alleged herein. Defendants' unfair conduct under the UCL includes, but is not limited to,
28 failure to pay Class Members wages and compensation they earned through labor provided, and failing

1 to otherwise compensate Class Members, as alleged herein. Defendants’ fraudulent conduct includes,
2 but is not limited to, issuing wage statements—in the form of settlement histories—containing false
3 and/or misleading information about the time Class Members worked and the amount of wages or
4 compensation due.

5 75. Plaintiff has standing to assert this claim because he has suffered injury in fact and has lost
6 money as a result of Defendants’ conduct.

7 76. Plaintiff and the Class seek restitutionary disgorgement from Defendants for all unpaid
8 wages and unreimbursed business expenses, to the extent permitted by law.

9 **XI. SIXTH CAUSE OF ACTION**

10 **For Civil Penalties Pursuant to California’s Private Attorneys General Act of 2004 (“PAGA”), §§**

11 **2698, *et seq.*, for Violations of California Labor Code Sections**

12 **(Brought by Plaintiff on Behalf of Himself and the General Public Against All Defendants)**

13 77. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
14 as if fully set forth herein.

15 78. PAGA provides that any provision of law under the Labor Code and applicable IWC Wage
16 Order(s) that provides for a civil penalty to be assessed and collected by California’s Labor and
17 Workforce Development Agency (“LWDA”) for violations of the California Labor Code and applicable
18 IWC Wage Order(s) may, as an alternative, be recovered by aggrieved employees in a civil action
19 brought on behalf of themselves and other current or former employees pursuant to procedures outlined
20 in California Labor Code section 2699.3.

21 79. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any person who
22 was employed by the alleged violator and against whom one or more of the alleged violations was
23 committed.”

24 80. Plaintiff and other current and former employees of Defendants are “aggrieved employees”
25 as defined by Labor Code section 2699(c) in that they are all Defendants’ current or former employees
26 and one or more of the alleged violations were committed against them.

27 81. Pursuant to Labor Code sections 2699.3 and 2699.5, aggrieved employees, including
28 Plaintiff, may pursue a civil action arising under PAGA, alleging violations of any provision listed in

1 section 2699.5, after the following requirements have been met:

- 2 a. The aggrieved employee shall give written notice (“Employee’s Notice”) by online filing to
- 3 the LWDA and by certified mail to the employer of the specific provisions of the California
- 4 Labor Code alleged to have been violated, including the facts and theories to support the
- 5 alleged violations;
- 6 b. The Employee’s Notice filed with the LWDA is accompanied by a seventy-five-dollar (\$75)
- 7 filing fee; and
- 8 c. The LWDA shall provide notice (“LWDA Notice”) to the employer and the aggrieved
- 9 employees by certified mail that it does not intend to investigate the alleged violation within
- 10 sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the
- 11 LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days
- 12 of the postmark date of the Employee’s Notice, the aggrieved employees may commence a
- 13 civil action pursuant to California Labor Code section 2699 to recover civil penalties in
- 14 addition to any other penalties to which the employees may be entitled.

15 82. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, including

16 Plaintiff, may pursue a civil action arising under PAGA for violations of any provision other than those

17 listed in section 2699.5 after the following requirements have been met:

- 18 a. The aggrieved employees shall give written notice by online filing (“Employee’s Notice”)
- 19 to the LWDA and by certified mail to the employer of the specific provisions of the
- 20 California Labor Code alleged to have been violated, including the facts and theories to
- 21 support the alleged violations;
- 22 b. The Employee’s Notice filed with the LWDA is accompanied by a seventy-five-dollar
- 23 (\$75) filing fee; and
- 24 c. The employer may cure the alleged violation within thirty-three (33) calendar days of the
- 25 postmark date of the Employee’s Notice. The employer shall give written notice by
- 26 certified mail within that period of time to the aggrieved employees or representatives and
- 27 the agency if the alleged violation is cured, including a description of actions taken, and
- 28 no civil action pursuant to Section 2699 may commence. If the alleged violation is not

1 cured within the 33-day period, the employees may commence a civil action pursuant to
2 Section 2699.

3 83. On December 21, 2023, Plaintiff provided written notice by online filing to the LWDA and
4 by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have
5 been violated, including facts and theories to support the alleged violations, in accordance with
6 California Labor Code section 2699.3. Plaintiff's notice to the LWDA was accompanied by the \$75
7 filing fee. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated
8 December 21, 2023 is attached hereto as "**Exhibit 1.**"

9 84. As of the filing date of the initial complaint, over sixty-five (65) days have passed since
10 Plaintiff sent the LWDA Notice described above, and the LWDA has not responded that it intends to
11 investigate Plaintiff's claims. Defendants have not given notice that it has cured the alleged violations
12 set forth in this Complaint. Thus, Plaintiff has satisfied the administrative prerequisites under
13 California Labor Code section 2699.3(a) and (c) to recover civil penalties against all defendants, in
14 addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 226(a),
15 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

16 85. Labor Code section 558(a) provides that "[a]ny employer or other person acting on behalf
17 of an employer who violates, or causes to be violated, a section of this chapter or any provision
18 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to
19 a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
20 for each pay period for which the employee was underpaid in addition to an amount sufficient to
21 recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
22 underpaid employee for each pay period for which the employee was underpaid in addition to an
23 amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil
24 penalties provided for in this section are in addition to any other civil or criminal penalty provided by
25 law."

26 86. Defendants, at all times relevant herein, were employers or persons acting on behalf of an
27 employer(s) who violated Plaintiff's and other non-party aggrieved employees' rights by violating
28 various sections of the California Labor Code as set forth above.

1 87. As set forth below, Defendants have violated numerous provisions of both the Labor Code
2 sections regulating hours and days of work as well as the applicable IWC Wage Order(s), including:

3 a. Violations of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the applicable
4 IWC Wage Order(s) for Defendants' failure to compensate Plaintiff and other Class
5 Members with at least minimum wages for all hours worked as set forth above;

6 b. Violations of Labor Code sections 226(a), 1198, and the applicable IWC Wage Order(s)
7 for failure to provide accurate and complete wage statements to Plaintiff and other Class
8 Members as set forth above;

9 c. Violations of Labor Code section 2802 for failure to reimburse Plaintiff and other Class
10 Members for all necessary, business-related expenses incurred during employment as set
11 forth above;

12 d. Violations of Labor Code sections 1174(d), 1198, and the applicable IWC Wage Order(s)
13 for failure to maintain payroll records. California Labor Code section 1198 provides that
14 the maximum hours of work and the standard conditions of labor shall be those fixed by
15 the Labor Commissioner and as set forth in the applicable IWC Wage Order(s). Section
16 1198 further provides that "[t]he employment of any employees for longer hours than
17 those fixed by the order or under conditions of labor prohibited by the order is unlawful."
18 Pursuant to the applicable IWC Wage Order(s), employers are required to keep accurate
19 time records showing when the employee begins and ends each work period. During the
20 relevant time period, Defendants failed, on a companywide basis, to keep records of
21 accurate start and stop times for Plaintiff and other non-party aggrieved employees in
22 violation of section 1198. California Labor Code section 1174(d) provides that "[e]very
23 person employing labor in this state shall . . . [k]eep a record showing the names and
24 addresses of all employees employed and the ages of all minors" and "[k]eep, at a central
25 location in the state or at the plants or establishments at which employees are employed,
26 payroll records showing the hours worked daily by and the wages paid to, and the number
27 of piece-rate units earned by and any applicable piece rate paid to, employees employed
28 at the respective plants or establishments" During the relevant time period, and in

violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party aggrieved employees showing the daily hours they actually worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked;

e. Violations of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination as set forth above;

f. Violation of Labor Code section 2802 for failure to reimburse all necessary, business-related expenses incurred during employment;

a. Plaintiff and other non-party aggrieved employees are therefore entitled to recover penalties, attorneys' fees, costs, and interest thereupon, pursuant to Labor Code section 2699(f)-(g); and

b. Any and all additional applicable civil penalties and sums as provided by the California Labor Code and/or other relevant statutes.

88. Pursuant to California Labor Code sections 2699(a), 2699.3, 2699.5, and section 558, Plaintiff, acting in the public interest as private attorney generals, seeks assessment and collection of civil penalties for themselves, all other non-party aggrieved employees, and the State of California against all defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

89. In addition, Plaintiff seeks and are entitled to seventy-five percent (75%) of all penalties obtained under California Labor Code section 2699 to be allocated to the LWDA, for education of employers and employees about their rights and responsibilities under the California Labor Code, and twenty-five percent (25%) to all aggrieved employees.

90. Further, Plaintiff is entitled to recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 2699(g)(1), 218.5, 1194(a) and any other applicable statute.

XII. PRAYER

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on behalf of the general public, pray for judgment against Defendants as follows:

A. An order that this action may proceed and be maintained as a class action;

- 1 B. For all unpaid minimum wages and liquidated damages due to Plaintiff and each Class
2 Member on their minimum wage claim;
- 3 C. For continuation wages under California Labor Code section 203;
- 4 D. For statutory penalties under California Labor Code section 226(e);
- 5 E. An order requiring Defendants to comply with California Labor Code section 226(a)
6 with respect to all currently employed Class Members;
- 7 F. For reimbursement of business expenses under California Labor Code section 2802;
- 8 G. For all available civil penalties pursuant to California Labor Code sections 210, 225.5,
9 226.3, 558, 1174.5, 1197.1 and for violations of California Labor Code sections 201,
10 202, 203, 226, 1194, 1197, 1198, and 2802;
- 11 H. For restitutionary disgorgement pursuant to the UCL;
- 12 I. An order enjoining Defendants from further unfair and unlawful business practices in
13 violation of Business & Professions Code sections 17200; *et seq.*;
- 14 J. Prejudgment interest at the maximum legal rate;
- 15 K. Reasonable attorneys' fees;
- 16 L. Costs of suit; and
- 17 M. Such other relief as the Court may deem just and proper.
- 18

19 Dated: August 19, 2024

SHEGERIAN & ASSOCIATES, INC.

20
21 By:



Carney R. Shegerian
Anthony Nguyen
Erik Dos Santos

Attorneys for Plaintiff JULIO MIRANDA,
individually, and on behalf of all others
similarly situated and aggrieved

26 **XIII. DEMAND FOR JURY TRIAL**

27 Plaintiff demands a trial by jury for himself and Class Members on all claims so triable.
28

1 Dated: August 19, 2024

SHEGERIAN & ASSOCIATES, INC.

2
3 By:



4 Carney R. Shegerian
5 Anthony Nguyen
6 Erik Dos Santos

7 Attorneys for Plaintiff JULIO MIRANDA,
8 individually, and on behalf of all others similarly
9 situated and aggrieved
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EXHIBIT 1

December 21, 2023

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

John Aguilar & Company, Inc.
Attn: Legal Department
1505 Navy Drive
Stockton, CA 95206

John Aguilar & Company, Inc.
Attn: Human Resources
360 N. Orange Street
Riverside, CA 92501

John Aguilar & Company, Inc.
Attn: Legal Department
P.O. Box 31450
Stockton, CA 95213

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR
CODE SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; John Aguilar & Company, Inc. dba Vernon Transportation Company

From: Julio Miranda, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Shegerian & Associates, Inc. has been retained by current employee Julio Miranda (“Mr. Miranda”) to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively, with Mr. Miranda, “Claimants”) who have been injured by violations of the California Labor Code. Mr. Miranda, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of John Aguilar & Company, Inc. dba Vernon Transportation Company (collectively, “John Aguilar”), intends to seek civil penalties, attorneys’ fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

145 S Spring Street, Suite 400
Los Angeles, California 90012

11520 San Vicente Boulevard
Los Angeles, California 90049

6205 Lusk Boulevard, Suite 200
San Diego, California 92121

650 California Street, Suite 4-137
San Francisco, California 94108

90 Broad Street, Suite 804
New York, New York 10004

3764 Elizabeth Street
Riverside, California 92506

Factual Statement:

John Aguilar is a trucking logistics company that delivers bulk sugar out-of-state to customers' locations in California and extraterritorially. John Aguilar relies on its employee drivers to transport sugar from John Aguilar's locations to the customers' locations in California and extraterritorially.

Claimant Mr. Miranda works for John Aguilar as an hourly, nonexempt employee in the position of driver, earning \$28 per hour, paid on a weekly basis. Mr. Miranda's routes involve driving in California, including in Los Angeles County. Mr. Miranda, on behalf of himself and all other similarly aggrieved current and former employees of John Aguilar are or were non-exempt, hourly truck driver employees who are or were engaged in providing transportation/delivery services for John Aguilar throughout California. As part of their employment with John Aguilar, Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively, including, but not limited to: conducting pre- and post-trip inspections and driving to the company's locations to pick up tractors and trailers loaded with bulk sugar that they then delivered to customers' locations.

Claimant Mr. Miranda regularly works 5 days per week for 12-14 hours or more per day and 60-70 or more hours per week. During the entire course of his employment, John Aguilar has failed to pay Claimants all minimum wages for all non-productive time spent working during rest breaks and for off-the-clock time worked before and after shifts in the form of communicating regarding work-related matters. Likewise, during the entire course of his employment, John Aguilar has failed and continues to fail to pay Mr. Miranda and those similarly aggrieved their minimum wages in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 9-2001.

John Aguilar had a company-wide policy and engaged in a company-wide practice of failing to record actual hours worked, thereby failing to record and maintain accurate records of work period start and stop times for Claimants, in violation of section 1198. John Aguilar also failed to pay all minimum wages to Mr. Miranda for all hours worked and other drivers in violation of Labor Code sections 1194 and 1197, and section 4 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders. In addition, John Aguilar failed to reimburse Mr. Miranda for all necessary, business-related expenses he incurred in violation of Labor Code section 2802. John Aguilar failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. John Aguilar has failed to provide timely, accurate wage statements to Mr. Miranda and all other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by John Aguilar, John Aguilar violated Labor Code sections 201-203 by failing to pay all wages due upon separation. Mr. Miranda is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Miranda intends to bring an action against John Aguilar under the Private Attorneys General Act ("PAGA") to recover wages and penalties

as provided by California law.¹

Theories of Labor Code Violations and Remedies:

Claimant Mr. Miranda has been continuously employed by John Aguilar since approximately December 28, 2022 through the present as an employee driver. The position of driver generally entails: driving to the company's locations to pick up tractors and trailers loaded with dry, bulk sugar transported from out of state that they then deliver to customers' locations in Southern California, including Santa Fe Springs, City of Industry, and Pico Rivera (all in Los Angeles County); Brawley; and Riverside; and also conducting pre- and post-trip inspections. For a period of at least four (4) years prior to December 2023, but for our purposes here, one (1) year prior, John Aguilar has failed and continues to fail to pay such employees all minimum wages; failed to record and maintain accurate required records; failed to issue timely, accurate wage statements; and failed to reimburse all necessary, business-related expenses.

Claimants also were at all times entitled to **payment of minimum wages**. John Aguilar has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 9-2001. For instance, Defendant implemented policies and enforced practices requiring Claimants to respond to work-related questions while clocked out after their shifts—all of which is compensable work. Claimants worked a substantial amount of time while off-the-clock, meaning they were not punched in for work, and therefore, those working hours were not recorded and then compensated. Claimants' off-the-clock time was never subsequently added and, therefore, remains uncompensated. Second, Defendant did not separately compensate Claimants for other non-productive time such as for their 10-minute paid rest breaks. Claimants were at all times entitled to take paid, off duty 10-minute rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 9-2001. However, John Aguilar failed to authorize and permit Mr. Miranda and all other similarly aggrieved employees to take off duty rest breaks. While Claimants are not seeking to enforce compliance with California's rest break requirement, Claimants are

¹ Without limitation, Mr. Miranda, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, and 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

seeking to enforce the requirement to pay minimum wages for those rest breaks—that non-productive time. John Aguilar did not separately compensate drivers with minimum wages for this non-productive time. As a result, Claimants are entitled to recover wages and/or penalties as provided by Labor Code sections 226.7, 558, 2699(a) or (f), and section 20 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders. Furthermore, since John Aguilar required their hourly nonexempt employees to work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699 and are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 9-2001.

Pursuant to IWC Wage Order No. 9-2001, employers are required to **record and maintain accurate time records** showing when employees begin and end each work period and each meal period. During the relevant time period, John Aguilar had a company-wide policy and practice of failing to record actual hours worked (because of all the off-the-clock work performed), thereby failing to keep accurate records of work periods and meal period start and stop times for Claimants, in violation of section 1198. Because John Aguilar failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on Claimants' wage statements, Claimants have been prevented from verifying—solely from information on the wage statements themselves—that they were paid correctly and in full. Instead, Claimants have had to refer to other sources beyond their wage statements and reconstruct time records to determine whether in fact they were paid correctly and the extent to which they were underpaid, thereby causing them injury. Accordingly, Claimants are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)–(g).

Claimants were at all times entitled to be provided **timely and accurate wage statements** from John Aguilar pursuant to Labor Code section 226. The wage statements John Aguilar issued to employee drivers were inaccurate and noncompliant for multiple reasons including, but not limited to: (1) failing to pay Claimants all minimum and premium wages owed, including meal period and rest break premiums due; (2) failing to reflect the correct number of total hours worked every pay period to account for Claimants' non-productive time, which, as a consequence, resulted in (3) failing to reflect the accurate amount of gross wages owed and (4) the net wages earned; and (5) failing to provide Claimants' last four digits of their Social Security numbers. Since these wage statements were inaccurate and remain as such, they are also untimely. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from John Aguilar, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within seventy-two (72) hours (resignation without notice). Claimants did not receive all wages owed upon separation based on John Aguilar's prior failings to pay all wages owed every pay period, as explained above.

Finally, Claimants were entitled to be reimbursed by John Aguilar for all **necessary, business-related expenses** they incurred in executing their duties for John Aguilar. California

Labor Code section 2802 provides that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” John Aguilar, however, has failed to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the expense of the cell phones required to communicate and remain in contact with dispatch. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

John Aguilar’s uniform failure to pay minimum wages—including failure to pay Claimants adequate premium compensation at the regular rate and for time worked off the clock—failure to reimburse all necessary, business-related expenses, failure to furnish timely and accurate wage statements violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys’ fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699 and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Miranda, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against John Aguilar for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

SHEGERIAN & ASSOCIATES, INC.

A handwritten signature in cursive script that reads "Cheryl Kenner".

Cheryl A. Kenner

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 11520 San Vicente Boulevard, Los Angeles California 90049.

On August 19, 2024, I served the foregoing document, described as **FIRST AMENDED CLASS AND PAGA REPRESENTATIVE ENFORCEMENT ACTION COMPLAINT** on all interested parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

Jenny D. Baysinger Ceryna Bustamante Vladimir J Kozina MAYALL HURLEY, P.C. 112 S Church Street Lodi, CA 95240	JBaysinger@mayallaw.com cbustamante@mayallaw.com VJKozina@mayallaw.com <i>Attorneys for Defendant John Aguilar & Company, Inc. dba Vernon Transportation Company</i>
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☐ **(BY MAIL)** I placed such envelope, with postage thereon prepaid, in the United States mail at Los Angeles, California. I am “readily familiar” with the firm’s practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid, at Santa Monica, California, in the ordinary course of business. I am aware that, on motion of the party served, Service is presumed invalid if the postal cancellation or postage meter date is more than one day after the date of deposit for mailing in this affidavit.

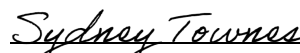
☐ **(BY FED EX)** I placed such envelope in a designated Federal Express pick-up box at Los Angeles, California.

☐ **(VIA CASE ANYWHERE)** I caused such documents described herein to be uploaded electronically onto the website www.caseanywhere.com per a mutual agreement between the parties. I uploaded the above-entitled document(s) with the understanding that all parties will have access and be able to download said documents.

☒ **(BY ELECTRONIC MAIL)** I sent such document via electronic mail to the email(s) noted above.

☒ **(STATE)** I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Executed on August 19, 2024, at Los Angeles, California.


Sydney Townes