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13 Attorneys for Plaintiff EDGAR SANTIAGO,
14 on behalf of himself and others similarly situated
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

13 ENYLLEL RUGAMA-HERNANDEZ and
14 EDGAR SANTIAGO, individuals, and on behalf
15 of themselves and on behalf of all persons
16 similarly situated,

17 Plaintiffs,

18 vs.

19 P & B INTERMODAL SERVICES LIMITED
20 LIABILITY COMPANY, a Limited Liability
21 Company; and DOES 1 through 50, inclusive,

22 Defendants.
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CASE NO.: **24STCV07771**

**DECLARATION OF ERIC J. NAESSIG IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: September 25, 2025

Hearing Time: 11:00 a.m.

Judge: Hon. Timothy Patrick Dillon
Dept: SS-15

Date Filed: March 29, 2024

Trial Date: Not set

DECLARATION OF ERIC J. NAESSIG

I, Eric J. Naessig, declare:

1. I am an attorney licensed to practice law in the state of California and have been admitted to practice before this Court. I am an attorney with the law firm Lavi & Ebrahimi, LLP, Counsel for Plaintiff Edgar Santiago ("Plaintiff Santiago") in this action, and I am an attorney assigned to work on this case. Based on my assignment to this case and familiarity with the file and action in this matter, I have personal knowledge of the matters stated herein and if called and sworn as a witness, I would and could competently testify under oath thereto. I am a member in good standing of all State and Federal District Courts of California.

2. This Declaration is submitted in support of Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement.

3. On December 6, 2024, Plaintiff Santiago filed his action against Defendant P&B Intermodal Services LLC, in the Los Angeles County Superior Court, Case No. 24STCV32337 ("Santiago Action").

4. On December 6, 2024, Plaintiff Santiago submitted notice to the LWDA of his intention to bring a claim for civil penalties against Defendant P&B Intermodal Services LLC pursuant to PAGA. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiff Santiago's December 6, 2024, notice to the LWDA.

5. Plaintiff Santiago's Complaint alleged the following violations of the California Labor Code and Business & Professions Code: (1) failure to pay wages for all time worked at minimum wage in violation of Labor Code Sections 1194 and 1197; (2) failure to pay overtime wages for daily overtime worked in violations of Labor Code Sections 510 and 1194; (3) failure to authorize or permit meal periods in violation of Labor Code Sections 512 and 226.7; (4) failure to authorize or permit rest periods in violation of labor code section 226.7; (5) failure to indemnify employees for employment-related losses/expenditures; (6) failure to provide complete and accurate wage statements in violation of Labor Code Section 226; (7) failure to timely pay all earned wages and final paychecks due at time of separation of employment in violation of labor code sections

201, 202, and 203; and (8) unfair business practices, in violation of Business and Professions Code sections 17200, et seq.

6. The Parties to this Action participated in a mediation with Tagore Subramaniam, Esq. on January 24, 2025. At the mediation, With Mr. Subramaniam's expert guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiffs' claims in the instant Action and the Santiago Action. The terms of the settlement are now set forth in complete and final form in the Class and PAGA Settlement Agreement.

7. On May 29, 2025, Plaintiff Enyllel Rugama-Hernandez and Plaintiff Santiago filed a First Amended Complaint in the instant Action to consolidate their claims and add Plaintiff Santiago as an additional representative.

EXPERIENCE OF CLASS COUNSEL

10. The attorneys at our office are experienced and qualified to evaluate the class claims and to evaluate settlement versus trial on a fully informed basis, and to evaluate the viability of the defenses. The partner of the firm who was lead counsel on this matter, Mr. Joseph Lavi, has been practicing law for nearly 20 years. I graduated from Southwestern Law School and have been practicing since 2022. Since I entered the practice of law, I have obtained substantial experience in the area of employment law litigation, particularly in the areas of PAGA as well as class and individual wage and hour matters.

11. I am also familiar with the practice of the partner Joseph Lavi and Vincent C. Granberry also assigned to this case. Mr. Granberry graduated from Arizona State University Sandra Day O'Connor College of Law in 2010 and has been practicing law for twelve years. Mr. Lavi, Mr. Granberry, myself, and the other members of my firm, have almost exclusively practiced in the area of labor and employment law. Mr. Lavi has handled numerous cases in all aspects of employment and labor law, including state and federal class actions, including wrongful termination, retaliation, and harassment actions. I have been in practice with the law firm of Lavi & Ebrahimian, LLP since July 2024. Mr. Lavi has tried both labor and employment cases in State and Federal court, and has argued before various Court of Appeals, on employment issues such as validity of Arbitration Agreements, Application of Res Judicata in class action cases as well as

1 other employment issues. Mr. Lavi has also been a panelist and/or speaker for various Employment
2 Law Continuing Legal Education Panels on issues of employment law trials, how to proceed and
3 conduct trials as well as proving and winning punitive damages. Mr. Lavi has also been named a
4 Southern California Super Lawyer in the area of Plaintiff's employment litigation- class action from
5 2011-2022. Mr. Lavi has been approved as class counsel by both federal and state Courts. Mr.
6 Lavi, myself, and the other attorneys at Lavi & Ebrahimian who are available to assist us in this
7 case if needed are fully capable of adequately and fairly representing Plaintiff and the proposed
8 class in this matter. Lavi & Ebrahimian, LLP, has been appointed Class Counsel in over fifty
9 contested proceedings including the following:

10 a. *Ischak v. Kaiser Foundation Hospitals, Inc.*, Los Angeles Superior Court
11 Case No. BC343535;

12 b. *Santana v. El Pollo Loco, Inc.*, Los Angeles Superior Court Case No.
13 BC369846;

14 c. *Edlin, et al. v. Fuddruckers, Inc.*, United States District Court, Central
15 District of California, Case No. CV-07-3678-ABC;

16 d. *Chavez, et al. vs. CEC Entertainment, Inc. d/b/a Chukee-Cheeses*, Los
17 Angeles Superior Court Case No. BC380996;

18 e. *Bustamante, et al. v. Teamone Employment Specialists*, Los Angeles Superior
19 Court Case No. BC383266;

20 f. *Cervantes, et al. v. Kaiser Foundation Hospitals, Inc.*, Alameda Superior
21 Court Case No. RG 0265835;

22 g. *Seng Savang v. Club One Casino*; Fresno Superior Court Case No.
23 05CECG02189;

24 h. *Norman, et al. v. Movado Retail Group, Inc.*, United States District Court,
25 Central District of California, Case No. CV08-06691 SVW (PLA);

26 i. *Shand v. G.A.L.A., Inc. dba Giorgio Armani*, Los Angeles Superior Court
27 Case No. BC342588;

28 g. *Solis v. Plycraft Industries, Inc.*, Los Angeles Superior Court Case No.

1 BC374816;

2 h. *Campos v. HWB Carwash, Inc.*, Los Angeles Superior Court Case No.
3 BC378990;

4 i. *Acosta, et al. v. Texwood Industries*, United States District Court, Central
5 District of California, Case No. CV07-3237-DDP (PLAX);

6 h. *Arevalo v. Gruma Corporation*, Los Angeles Superior Court Case No.
7 BC410322;

8 j. *Burrola v. American Promotional Events*, Los Angeles Superior Court Case
9 No. BC412315;

10 k. *Cortez v. Trader Distribution Services*, Los Angeles Superior Court Case No.
11 BC397208;

12 l. *Cueva v. Allied Industries, Inc.*, Los Angeles Superior Court Case No.
13 BC399431;

14 m. *Del Toro v. Petco Animal Supplies, Inc.*, San Diego Superior Court Case No.
15 37-2009-00103626-CU-OE-CTL;

16 n. *Garcia v. Home Cooking, Inc.*, Los Angeles Superior Court Case No.
17 BC451148;

18 o. *Alcantar v. Amerimax Building Products, Inc.*, United States District Court,
19 Central District of California, Case No. CV 10-8916 DDP (CWx);

20 p. *Arancivias v. Clougherty Packaging, LLC dba Farmer John*, Los Angeles
21 Superior Court Case No. BC432406;

22 q. *Barajas v. Menzies Aviation, Inc.*, United States District Court, Central
23 District of California, Case No CV-10-02315-JEM;

24 r. *Barrera v. BHFC Operating, LLC dba Bottega Louie*, Los Angeles Superior
25 Court Case No. BC462603;

26 s. *Camacho v. American Textile Maintenance Co.*, Los Angeles Superior
27 Court Case No. BC452570;

28 t. *Cortes v. Monsanto Company*, Ventura Superior Court Case No. 56-2010-

00366952-CU-OE-VTA;

u. *Escobar v. Aero-Electric Connector, Inc.*, Los Angeles Superior Court Case No. BC421009;

v. *Gomez v. Bacara Resort & Spa*, Santa Barbara Superior Court Case No. 1341987;

w. *Gonzalez v. Ashley Furniture Industries, Inc.*, Los Angeles Superior Court Case No. BC425708;

x. *Gonzalez v. Burrtec Waste Industries, Inc.*, Los Angeles Superior Court Case No. BC436879;

y. *Gutierrez v. Visterra Credit Union*, Riverside Superior Court Case No. RIC10020183;

z. *Hernandez v. Kruse & Son, Inc.*, Los Angeles Superior Court Case No. BC411849;

aa. *Lopez v. Tecno Industrial Engineering*, Los Angeles Superior Court Case No. BC411134;

bb. *Lowanga v. Continental Currency Services, Inc.*, Orange County Superior Court Case No. 30-2011-0044011-CU-OE-CXC;

cc. *Aguilar v. PLS Financial Services, Inc.*, United States District Court, Central District of California, Case No. CV 10-0415 ODW (FMOx)

dd. *Lozada v. Classic Party Rentals, Inc.*, Los Angeles Superior Court Case No. BC443792;

ee. *Madrid v. OPI Products, Inc.*, Los Angeles Superior Court Case No. BC451489;

ff. *Martinez v. J. Fletcher Creamer & Son, Inc.*, United States District Court Case No. CV 10-0968-PSG-FMOX;

gg. *Martinez v. Administaff Companies II, L.P.*, Los Angeles Superior Court Case No. BC425799;

hh. *Martinez v. Morgans Hotel Group Management, LLC*, Los Angeles Superior

1 Court Case No. BC446744;

2 jj. *Sanchez v. La Brea Bakery, Inc.*, Los Angeles Superior Court Case No.
3 BC456420;

4 ii. *Montenegro v. Ruggeri Marble and Granite, Inc.*, United States District
5 Court, Central District of California, Case No. CV-10-00711 JFW (PLAx);

6 kk. *Reed v. 99 Cents Only Stores*, Los Angeles Superior Court Case No.
7 BC436793;

8 ll. *Santos v. Noble Management Group-California, LLC*, United States District
9 Court, Central District of California, Case No. CV 10-2594 DSF (VBKx)

10 mm. *Taylor v. U.S. Healthworks Holding Company, Inc.*, Orange County Superior
11 Court Case No. 30-2011-00473505;

12 nn. *Valencia Diaz v. Gene Wheeler Farms, Inc.*, Los Angeles Superior Court
13 Case No. BC436235;

14 oo. *Zad-Behtooie v. Valley Village*, Los Angeles Superior Court Case No.
15 BC451490;

16 pp. *Bell v. Aidells Sausage Company, Inc.*, Alameda Superior Court Case No.
17 RG10523946;

18 qq. *Negrete v. Cenveo, Inc.*, United States District Court, Central District of
19 California, Case No. CV 11-09543 DSF (MRWx);

20 rr. *Bejar v. Exopack-Ontario, Inc.*, Orange County Superior Court Case No. 30-
21 2011-00518396-CU-OE-CXC;

22 ss. *Aguilar v. PLS Financial Services, Inc.*, United States District Court, Central
23 District of California, Case No. CV 10-0415 ODW (FMOx);

24 tt. *Sparks v. Larry Flynt dba Hustler Casino*, Los Angeles Superior Court Case
25 No. BC320172;

26 uu. *Morris v. Chevron Stations, Inc.*, Los Angeles Superior Court Case No.
27 BC361380;

28 vv. *Marino v. BP West Coast Products, LLC*, Los Angeles Superior Court Case

1 No. BC357987.

2 12. Mr. Lavi, Mr. Granberry, and I and the other attorneys at the firm made every effort
3 to litigate this action in an efficient and cost-effective manner. Given his years of experience, his
4 trial and appellate experience, and the focus of his practice, if Mr. Lavi were to charge for his type
5 of work by the hour, his current hourly rate would be \$1000 per hour. Mr. Granberry's rate would
6 be \$750 per hour. My hourly rate would be \$675 per hour. These rates are the firm's current billing
7 rates and are supported by the extensive and specialized experience in these types of cases and
8 recognized expertise described. I have personal knowledge of the hourly rates charged by other
9 attorneys with comparable experience to Mr. Lavi's, Mr. Granberry's, and my own. Based on this
10 information, I believe that our rates are reasonable and appropriate fees and are fully consistent with
11 the market rates for Los Angeles attorneys with comparable expertise, experience and
12 qualifications.

13 13. The specific work performed by my firm in prosecuting this action has included, but
14 is not been limited to: preparing the pleadings; reviewing documents; analyzing the data;
15 participating in settlement negotiations; participating in a full-day mediation; negotiating;
16 participating in the preparation and negotiation of the settlement agreement as well as the Motion
17 for Preliminary Approval.

18 14. Our firm maintains all records regarding costs expended on each case. I have
19 reviewed the records of costs expended in this matter. According to our records, our firm has
20 incurred approximately **\$2,324.24** in costs in this matter at this time and will likely incur additional
21 costs to see this matter through final judgment. This amount includes costs associated with the costs
22 associated with filing of the papers filed and responded to in this matter, and service of process for
23 the summons and complaint.

24 15. Based on the documents and data reviewed, and the experience of myself and other
25 attorneys at Lavi & Ebrahimian LLP, counsel for Plaintiff Santiago believes that the settlement
26 reached herein is a fair, reasonable, and adequate result for the class members involved and should
27 be approved by the Court.

1 16. There is a Joint Prosecution Agreement between Blumenthal Nordrehaug Bhowmik
2 De Blouw LLP and Lavi & Ebrahimian, LLP, and Plaintiffs and Plaintiffs' counsel have consented
3 in writing to the fee split in attorney's fees.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct. Executed this 17th day of July 2025 at Beverly Hills California.

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/s/ Eric J. Naessig
Eric J. Naessig

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“Exhibit 1”

LAW OFFICES OF
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December 6, 2024

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE § 2699.3**

To: California Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612
Via Online Submission Only

<u>P&B INTERMODAL SERVICES LLC</u> Registered Agent for Process Service c/o Cogency Global 600 Wilshire Blvd, Suite 980 Los Angeles, CA 90017 <u>Certified No.: 9589 0710 5270 2392 2862 98</u>	<u>P&B INTERMODAL SERVICES LLC</u> Attn.: Legal Department 221 River Street, 9th Floor Hoboken, NJ 07030 <u>Certified No.: 9589 0710 5270 2392 2863 04</u>
<u>P&B INTERMODAL SERVICES LLC</u> Attn.: Legal Department 17225 Arenth Avenue City of Industry, CA 91748 <u>Certified No.: 9589 0710 5270 2392 2862 81</u>	

From: EDGAR SANTIAGO, on behalf of himself and all other current and former aggrieved California-based hourly non-exempt employees of P&B INTERMODAL SERVICES LLC.

c/o Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
William Tran, Esq.
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Our firm has been retained by aggrieved employee EDGAR SANTIAGO concerning a representative action pursuant to the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA") against his employers, P&B INTERMODAL SERVICES LLC.

We are filing this written notice with the Labor and Workforce Development Agency ("LWDA") pursuant to the provisions of the California Labor Code §§ 2699, 2699.3, and 2698, *et seq.* The purpose of this letter is to inquire whether LWDA intends to investigate and seek civil penalties associated with my client's allegations of violations of the Labor Code by his Employer. In addition to submitting this letter and the \$75.00 filing fee via the online PAGA filing system, I am causing a copy of this letter to be mailed to the Department of Industrial Relations – Accounting Unit.

FACTUAL STATEMENT AND THEORIES OF LABOR CODE VIOLATIONS

Aggrieved employee EDGAR SANTIAGO ("Plaintiff" or "Employee") was employed by P&B INTERMODAL SERVICES LLC ("Defendants" or "Employers") as an hourly non-exempt employee from in or around November 2023 until on or about July 26, 2024.

1. *Failure to Pay the Minimum Wage Rate of Pay for All Hours Worked in Violation of Labor Code §§ 1194 and 1197*

Employee alleges that during his employment, Employer failed to pay him and other current and former aggrieved California-based hourly non-exempt employees with compensation at the minimum wage rate of pay for all the hours that they worked in violation of Labor Code §§ 1194 and 1197. Labor Code § 1197 provides, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." Labor Code § 1194 states, "...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Employee alleges that during his employment, Employer failed to pay him and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Employer's policies, practices, and/or procedures including, but not limited to:

- Deleting and/or altering Employee's and other current and former aggrieved California-based hourly non-exempt employees' time worked to match their scheduled shifts, despite Employee and other current and former aggrieved California-based hourly non-exempt employees working more than their scheduled shifts, resulting in Employee and other current and former aggrieved California-based hourly non-exempt employees not being paid for all the time that they worked.

Employee and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time resulting in Employer's failure to pay minimum wage for

all the hours Employee and other current and former aggrieved California-based hourly non-exempt employees worked.

Employer's aforementioned policies, practices, and/or procedures resulted in time each day in which Employee and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of Employer without being compensated for that time.

Based on these violations, Employee intends to seek civil penalties pursuant to the Private Attorneys General Act ("PAGA"), California Labor Code §§ 2698, *et seq.*, and Labor Code § 1197.1, subdivisions (a)(1)-(2), on behalf of the Labor and Workforce Development Agency ("LWDA") against Employer if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employer's failure to pay wages at a minimum wage rate for all hours worked, Employee will also seek civil penalties for Defendant's violations of Labor Code § 226(a) under Labor Code §§ 226.3 and/or 2699(f)(2) because the failure to pay such minimum wages for all hours worked rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and resulted in their wage statements being inaccurate with respect to gross wages earned, total hours worked, net wages earned and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(1, 2, 5 & 9).

2. *Failure to Pay Overtime Wages for Overtime Hours Work and/or Failure to Pay Overtime wages at the Proper Overtime Rate of Pay in Violation of Labor Code §§ 510 and 1194*

Employee alleges that during his employment, Employer failed to pay him and other current and former aggrieved California-based hourly non-exempt employees for the overtime hours that they worked at their overtime rate of pay.

Labor Code § 510, subdivision (a), states in relevant part:

"Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee."

Further, Labor Code § 1198 provides,

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

Labor Code § 1194 provides, "...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil

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

Employee alleges that during his employment, Employer failed to pay him and other current and former aggrieved California-based hourly non-exempt employees overtime wages for overtime hours worked due to Employer's policies, practices, and/or procedures including, but not limited to:

- Deleting and/or altering Employee's and other current and former aggrieved California-based hourly non-exempt employees' time worked to match their scheduled shifts, despite Employee and other current and former aggrieved California-based hourly non-exempt employees working more than their scheduled shifts, resulting in Employee and other current and former aggrieved California-based hourly non-exempt employees not being paid for all the time that they worked.

Employee and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time resulting in Employers' failure to pay minimum wage for all the hours Employee and other current and former aggrieved California-based hourly non-exempt employees worked.

Employer's aforementioned policies, practices, and/or procedures resulted in time each day in which Employee and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of Employer without being compensated for that time. To the extent that the foregoing unpaid time resulted from Employee and other current and former aggrieved California-based hourly non-exempt employees being subject to the control of Employer when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Employer failed to pay them at their overtime rate of pay for all the overtime hours they worked.

Employer's foregoing policies, practices, and/or procedures resulted in Employer failing to pay Employee and other current and former aggrieved California-based hourly non-exempt employees at their overtime rate of pay for all overtime hours worked, in violation of Labor Code §§ 510, 1194, 1198, and the Wage Order.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code §§ 2698, *et seq.*, under Labor Code §§ 2699(f)(2) and 558, subdivisions (a)(1)-(2) on behalf of LWDA against Employer if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employer's failure to pay overtime wages at the lawful overtime rate for all overtime hours worked, Employee will also seek civil penalties for Defendant's violations of Labor Code § 226(a) under Labor Code §§ 226.3 and/or 2699(f)(2) because the failure to pay such overtime wages for all overtime hours worked rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and resulted in their wage statements being inaccurate with respect to gross wages earned, total hours worked, net wages earned and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(1, 2, 5 & 9).

3. *Failure to Authorize or Permit Meal Periods and/or Failure to Pay Meal Period Premiums in Violation of Labor Code §§ 512 and 226.7*

Employee alleges that during his employment, Employer failed to authorize or permit all legally required and compliant meal periods and/or pay meal period premiums. California law requires an employer to provide an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code §§226.7, 512; Wage Order 9, §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employer requires the employee to remain at the work site or facility during the meal period, the meal period must be paid. This is true even where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code §226.7; Wage Order 9, §11.

Employee alleges that Employer failed to authorize or permit him and other current and former aggrieved California-based hourly non-exempt employees to take all legally required and compliant meal periods due to Employer's policies, practices, and/or procedures including, but not limited to, the following:

- Routinely requiring Employee and other current and former aggrieved California-based hourly non-exempt employees to either miss their meal breaks or to take their meal breaks beyond the end of their fifth hour worked in order to completely their job duties; and
- Failing to provide Employee and other current and former aggrieved California-based hourly non-exempt employees a second uninterrupted duty-free meal period of no less than thirty (30) minutes for each workday that Plaintiff and similarly situated employees work shifts over ten (10) hours.

Additionally, Employee alleges that Employer maintained a policy, practice, and/or procedure whereby they failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees a meal period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday that they did not receive all legally required and compliant meal periods, in violation of Labor Code § 226.7 and Wage Order 9 at § 11.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code §§ 2698, *et seq.*, under Labor Code § 558 and/or Labor Code § 2699(f)(2) on behalf of LWDA against Employer if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employer's failure to authorize or permit all legally required and compliant meal periods and/or failure to pay meal period premium wages, Employee will also

seek civil penalties for Defendant's violations of Labor Code §§ 226(a) under Labor Code §§ 226.3 and/or 2699(f)(2) because the failure to pay meal period premiums and/or pay meal period premiums at the proper regular rate of pay rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and resulted in their wage statements being inaccurate with respect to gross and net wages earned, in violation of Labor Code §§ 226(a)(1 & 5).

4. *Failure to Authorize or Permit Rest Periods and/or Failure to Pay Rest Period Premiums in Violation of Labor Code § 226.7*

Employee alleges that during his employment, Employer failed to authorize or permit all legally required and compliant rest periods and/or failed to pay rest period premiums. California law requires that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof..." Wage Order 9, § 12. "Employees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code § 226.7. Additionally, the rest period requirement "obligates Employer to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.* (2016) 5 Cal.5th 257, 269. That is, during rest periods an employer must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code § 226.7; Wage Order 9 at § 12.

Employee alleges that Employer failed to authorize or permit him and other current and former aggrieved California-based hourly non-exempt employees to take all legally required and compliant rest periods due to Employer's policies, practices, and/or procedures including, but not limited to, the following:

- Failing to provide Employee and other current and former aggrieved California-based hourly non-exempt employees with net ten (10) minute rest breaks for every four (4) hours worked or major fraction thereof.
- Failing to provide Employee and other current and former aggrieved California-based hourly non-exempt employees a third uninterrupted duty-free rest period of no less than ten (10) net minutes on each workday that Employee and other current and former aggrieved California-based hourly non-exempt employees work shifts over ten (10) hours.

Additionally, Employee alleges that Employer maintained a policy, practice, and/or procedure whereby they failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees a rest period premium wage of one (1) additional hour of pay

at their regular rate of compensation for each workday that they did not receive all legally required and compliant rest periods, in violation of Labor Code § 226.7 and Wage Order 9 at § 12.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code §§ 2698, *et seq.*, under Labor Code § 2699(f)(2), on behalf of LWDA against Employer if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employer's failure to authorize or permit all legally required and compliant rest periods and/or failure to pay rest period premium wages, Employee will also seek civil penalties for Defendant's violations of Labor Code § 226(a) under Labor Code §§ 226.3 and/or 2699(f)(2) because the failure to pay rest period premiums and/or pay rest period premiums at the proper regular rate of pay rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and resulted in their wage statements being inaccurate with respect to gross and net wages earned, in violation of Labor Code §§ 226(a)(1 & 5).

5. *Failure to Indemnify Employees for Employment-Related Expenditures in Violation of Labor Code § 2802*

Employees allege that during their employment, Employers failed to indemnify them and other current and former California-based employees for all necessary expenditures or losses incurred by them in the discharge of their duties. Labor Code § 2802(a) states, "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..."

Employees allege that during their employment, Employers failed to indemnify them and other current and former California-based employees for all necessary expenditures or losses incurred by them in the discharge of their duties due to Employers' policies, practices, and/or procedures including, but not limited to, the following:

- Requiring Employee and other current and former aggrieved California-based hourly non-exempt employees to use or purchase their own tools and/or resources in order to work for Employers, including but not limited to personal cell phone, tools, steel-toed shoes for work-related purposes - without reimbursing Employee and other current and former aggrieved California-based hourly non-exempt employees for such use.

Employers' aforementioned policies, practices, and/or procedures resulted in Employees and other current and former aggrieved California-based employees not receiving indemnification for employment-related expenditures, in violation of Labor Code § 2802.

Based on this violation, Employees will seek both restitution for themselves and other current and former aggrieved California-based employees for Employers' violations of Labor Code § 2802 and will seek civil penalties under PAGA, Labor Code §§ 2698, *et seq.*, on behalf of the LWDA against Employers if authorized to file a representative action on behalf of the State of California.

6. *Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code § 204*

Employee alleges that during his employment, Employer failed to timely pay Employee's and other current and former aggrieved California-based hourly non-exempt employees' earned wages. In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code § 204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code § 204(d).

As a derivative of Employee's claims above, Employee alleges that Employer failed to timely pay him and other current and former aggrieved California-based hourly non-exempt employees' earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code § 204. Employer's aforementioned policies, practices, and/or procedures resulted in Employer failing to pay Employee and other current and former aggrieved California-based hourly non-exempt employees their earned wages within the applicable time frames outlined in Labor Code § 204.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code §§ 2698, *et seq.*, on behalf of LWDA against Employer if authorized to file a representative action on behalf of the State of California.

7. *Secret Payment of Wages Lower Than Designated by Statute, in Violation of Labor Code § 223*

Labor Code § 223 provides that, where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or contract. By engaging in the unlawful conduct alleged herein, including by failing to pay wages no less than the applicable legal minimum and overtime wages, and also meal and rest break premiums, as established by Labor Code §§ 226.7, 510, 1194, 1197 and §§ 11 and 12 of the applicable IWC Wage Orders, as incorporated by Labor Code § 1198, the Employer secretly paid a lower wage than designated by statute while purporting to pay the wages designated by statute, in violation of Labor Code § 223. The Employee with therefore pursue the civil penalties established by Labor Code § 225.5 for all such violations of Labor Code § 223, on behalf of the LWDA and against Employer if authorized to file a representative action on behalf of the State of California.

8. *Failure to Provide Complete and Accurate Wage Statements in Violation of Labor Code § 226*

Labor Code § 226(a) states that "[a]n employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee...(3) the number of piece-

rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer...and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....”

Employee alleges that as a derivative of Employee’s claims above, Employer failed to provide accurate wage and hour statements to Employee and other current and former aggrieved California-based hourly non-exempt employees who were subject to Employer’s control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), as such failures rendered Employee’s and other current and former aggrieved California-based hourly non-exempt employees’ pay calculations inaccurate and resulted in their wage statements being inaccurate with respect to gross wages earned, total hours worked, net wages earned and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(1, 2, 5 & 9).

Based on these violations, Employee will seek civil penalties pursuant to PAGA, Labor Code §§ 2698, *et seq.*, under Labor Code § 226.3 and/or Labor Code § 2699(f)(2) on behalf of LWDA, against Employer if authorized to file a representative action on behalf of the State of California.

9. *Failure to Timely Pay all Earned Wages and Final Wages due at Time of Separation of Employment in Violation of Labor Code §§ 201, 202, 203*

Labor Code § 201(a) states that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202(a) continues, “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter....” Finally, Labor Code section 203(a) provides, “[i]f an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days....”

As a result of the aforementioned violations of the Labor Code, Employee alleges that he was not paid his final wages in a timely manner as required by Labor Code § 203. Earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages) (all described above), were not paid at the time of Employee’s separation of employment. Employee is informed and believes and thereon alleges that former aggrieved California-based hourly non-exempt employees who separated from Employer, whether voluntarily or involuntarily, were not paid all wages due in a timely manner, as required by Labor Code §§ 201, 202, and 203.

Based on these violations, Employee will seek civil penalties pursuant to PAGA, Labor Code §§ 2698, *et seq.*, under Labor Code § 2699(f)(2) on behalf of LWDA, against Employer if authorized to file a representative action on behalf of the State of California.

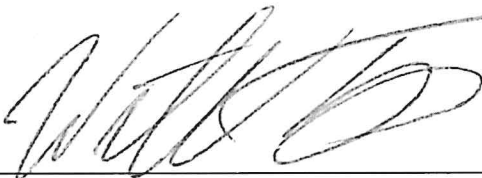
10. Employer's Other Violations of the California Labor Code

Finally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 25 Cal.App.5th 745 ("*Huff*"), as an aggrieved employee, Employee has standing, and intends, on behalf of LWDA, to pursue civil penalties against Employer for any and all other Labor Code violations committed by Employer. In *Huff*, the California Court of Appeals held that an employee alleging a single violation of the Labor Code under PAGA may also bring PAGA claims against the employer for all other alleged Labor Code violations, even those suffered by other employees of the same employer. According to the *Huff* decision, Employee, as an "aggrieved" employee affected by at least one Labor Code violation may, and hereby does, pursue penalties on behalf of LWDA for unrelated Labor Code violations by Employer.

CONCLUSION

Our client intends to file a representative action pursuant to PAGA concerning his wage claims as warranted by Employer's violations of Labor Code §§ 201, 202, 203, 204, 223, 226, 226.7, 510, 512, 1194, 1197, 2802, and §§ 3, 4, 11 and 12 of the applicable IWC Wage Orders. This letter is being sent to you as an inquiry into whether LWDA wishes to investigate my client's claims for civil penalties associated with Employer's violations of the Labor Code, as alleged herein. Thank you for your assistance and cooperation in this matter. If you have any questions or concerns, please contact me at the above-listed information.

Very truly yours,
LAVI & EBRAHIMIAN, LLP

A handwritten signature in black ink, appearing to read 'William Tran', is written over a horizontal line.

William Tran, Esq.