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Per local Rule, This case is assigned to
Judge Weil, Edward G, for all purposes.

Attorneys for Plaintiff Nixon Cruz Gamez

SUMMONS ISSUED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

NIXON CRUZ GAMEZ,

Plaintiff,

vs.

ENVIRO VIEWS, INC.; ARMANDO
GARCIA VEGA; ANTONIO GARCIA
VEGA; and DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: C25-00117

) **COMPLAINT FOR DAMAGES FOR:**

-) 1) **FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**
) 2) **FAILURE TO PAY MINIMUM**
) **WAGES;**
) 3) **FAILURE TO PAY OVERTIME**
) 4) **FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**
) 5) **FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**
) 6) **FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS;**
) 7) **FAILURE TO GIVE REST BREAKS;**
) 8) **FAILURE TO GIVE MEAL**
) **BREAKS;**
) 9) **PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**
) 10) **FAILURE TO REIMBURSE FOR**
) **BUSINESS EXPENSES**
) 11) **VIOLATION OF CALIFORNIA**
) **BUSINESS AND PROFESSIONS**
) **CODE SECTION 17200.**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, NIXON CRUZ GAMEZ (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Contra Costa in this judicial district because Defendants ENVIRO VIEWS, INC.; ARMANDO GARCIA VEGA; ANTONIO GARCIA VEGA and DOES 1 to 25, inclusive, do business in the County of Contra Costa and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Contra Costa is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$35,000.

2. Plaintiff is a male resident of the County of Contra Costa, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant ENVIRO VIEWS, INC. is a California corporation, doing business in Contra Costa County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendants ARMANDO GARCIA VEGA and ANTONIO GARCIA VEGA are residents of the State of California and the owners and managing agents of ENVIRO VIEWS, INC. ARMANDO GARCIA VEGA and ANTONIO GARCIA VEGA are being included in this lawsuit pursuant to Labor Code Section 558.1 in that they were involved in the day-to-day operations of the business, including the wage and hour practices and policies, and as such, controlled the hours, wages, and working conditions of Plaintiff and other hourly, non-exempt employees. ENVIRO VIEWS, INC.; ARMANDO GARCIA VEGA and ANTONIO GARCIA VEGA are collectively referred to as "ENVIRO VIEWS" or "Defendant(s)".

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

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

GENERAL ALLEGATIONS

7. Plaintiff started working at ENVIRO VIEWS on or around mid-2023 as a driver. Plaintiff was classified as an hourly, non-exempt employee. Plaintiff's employment ended in or around January 17, 2024.

8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas Security Services USA, Inc., an onsite security provider. After about a year of employment, Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff specifically alleged violations to the Labor Code requiring immediate payment of wages upon termination of employment and weekly payment of wages to temporary employees. The trial court determined Huff was not a temporary employee, and therefore, lacked standing to bring the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court

1 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
2 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
3 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
4 PAGA representative to sue for violations that the representative has personally suffered. The
5 PAGA statute states that an "aggrieved employee" is able to file suit on behalf of themselves
6 and others. The statute also states that an "aggrieved employee" is "any person who was
7 employed by the alleged violator and against whom one or more of the alleged violations was
8 committed." Because at least one of the violations that Huff had alleged had affected him
9 personally, the Court of Appeal denied Securitas' motion.
10

11 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
12 other employees, it allows for suits broader than the specific violations the named
13 employee experienced. Therefore, even if the employee did not personally experience the
14 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is
15 Plaintiff's position that Plaintiff can equivocally bring the following labor code violations on
16 behalf of all other employees, including ALL hourly, non-exempt employees who worked for
17 ENVIRO VIEWS anywhere in the state of California during the relevant PAGA period.
18

19 10. It is Plaintiff's position that ENVIRO VIEWS has violated the following Labor Code
20 Sections against Plaintiff and other similarly situated aggrieved employees, who include all non-
21 exempt, hourly employees who worked for ENVIRO VIEWS at their various locations in the
22 State of California during the relevant PAGA period.
23

24 11. ENVIRO VIEWS did not provide Plaintiff and other aggrieved employees with
25 compensation for all hours worked and did not pay Plaintiff and others the minimum wages to
26 which they were entitled for work performed pursuant to California Labor Code sections 1194,
27 1197 and 1197.1. This is so because ENVIRO VIEWS had a policy of rounding down the hours
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1 worked by Plaintiff and other aggrieved employees, which translated to Plaintiff and others not
2 being paid for all hours worked, including minimum wages. In fact, ENVIRO VIEWS did not
3 have a formal, digital timekeeping system wherein employees clocked in and clocked out. In
4 fact, the time entries were fully controlled and manipulated by management. As such, one look
5 at employee paystubs during the PAGA period would indicate that work hours were always
6 whole numbers and always rounded. The latter is not in line with reality. In addition, and to the
7 extent Plaintiff and others' meal breaks were interrupted and they had to work through meal
8 periods, that time was "off the clock" and was not compensated in violation of California's
9 minimum wage laws. Furthermore, Plaintiff and others were not paid for "travel time" and while
10 they were still under the control of the employer in traveling from destination to destination to
11 perform work duties. Moreover, ENVIRO VIEWS failed to provide its employees with proper
12 and accurate reporting time pay.

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

24 13. ENVIRO VIEWS was subject to the prevailing wage laws of the State of California
25 pursuant to Labor Code § 1774, regarding work undertaken on public construction projects.
26 ENVIRO VIEWS violated Labor Code § 1774, because it paid its employees, including Plaintiff,
27 less than the specific prevailing rates of wages to all workmen employed in the execution of the
28

1 contract of the projects. Plaintiff and others similarly situated worked on public works projects,
2 especially for the State of California.

3 14. Due to the above "off the clock" violations, ENVIRO VIEWS also violated Labor Code
4 §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation,
5 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
6 throughout their employment. Plaintiff's and other aggrieved employees' actual work hours,
7 without the time shaving and rounding down and without subtracting time for meal breaks
8 wherein they were working, entitled them to overtime compensation, however, ENVIRO
9 VIEWS did not compensate its hourly, non-exempt employees with the correct amount of
10 overtime due to the "off the clock" work and time shaving as described above. Furthermore,
11 ENVIRO VIEWS failed to include bonuses/incentive payments in calculating employees'
12 regular rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the
13 incentive and bonus payments were also not factored into employees' regular rate for purposes
14 of receiving meal and rest break premiums per the Ferra v. Loews case.
15

16
17 15. ENVIRO VIEWS also violated Labor Code § 226.7 and the appropriate Industrial
18 Welfare Commission Wage Order no. 4 because it failed to provide Plaintiff and other similarly
19 situated aggrieved employees with 10-minute rest periods for every four hours of work, or
20 majority portion thereof, throughout their employment. ENVIRO VIEWS did not completely
21 relieve Plaintiff and others of all duty during said rest periods. ENVIRO VIEWS did not pay to
22 Plaintiff and others one additional hour of pay at Plaintiff's regular rate of compensation for each
23 workday that one or more statutory rest periods was not provided. It was not part of the company
24 policy for employees such as Plaintiff to take at least two timely, uninterrupted rest breaks per
25 shift. The concept of rest breaks was not consistently implemented. Moreover, it would not have
26 been possible for employees such as Plaintiff to take such uninterrupted rest breaks due to work
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1 obligations and being out in the field. In fact, the statutory breaks would often be interrupted
2 with the boss discussing the plans for the day and detailing what needed to be done on any
3 particular day. As such, the culture as well as the policies and procedures and job duties of
4 employees at ENVIRO VIEWS did not lend itself to the employees receiving consistent statutory
5 rest breaks wherein they were relieved of all work duties. The environment at ENVIRO VIEWS
6 was not conducive to receiving multiple statutory rest breaks under California law and timely,
7 statutory rest breaks were not authorized or enforced.

8
9 16. ENVIRO VIEWS violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
10 Welfare Commission Wage Order no. 4 because it failed to provide hourly, non-exempt
11 employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods
12 for every five (5) hours of work throughout their employment. ENVIRO VIEWS did not
13 completely relieve Plaintiff and other employees of all duty during said meal periods. ENVIRO
14 VIEWS did not pay to Plaintiff and its hourly, non-exempt employees one additional hour of pay
15 at their regular rate of compensation for each workday that one or more statutory meal periods
16 was not provided. The hourly, non-exempt employees would often not be able to receive meal
17 periods before the 5th hour worked that were actually uninterrupted. The latter was due to the
18 workload, being understaffed, and due to being in a fast-paced environment as well doing work
19 in the field. Like the rest breaks, receiving a consistent thirty-minute uninterrupted and timely
20 meal break was not part of the company culture and was not enforced by ENVIRO VIEWS. In
21 fact, Plaintiff and others did not clock in and clock out themselves for meal periods and meal
22 period times were not kept. Under the law, there is a presumption that meal breaks were not
23 provided to employees such as Plaintiff. Consequently, it was the normal practice and custom of
24 ENVIRO VIEWS not to authorize, permit, and enforce timely statutory meal periods. If
25 ENVIRO VIEWS had Plaintiff sign a meal period waiver, it would not be valid and enforceable
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1 since Plaintiff and others generally worked more than a 6-hour shift. If ENVIRO VIEWS had
2 Plaintiff sign an on-duty meal period agreement wherein Plaintiff agreed to work through the
3 meal periods, it would be invalid and unenforceable because the nature of Plaintiff's job does
4 not and did not prevent him from taking a meal period and the company could have hired
5 "breakers" to relieve Plaintiff of his job duties so that he can actually take a timely, uninterrupted
6 meal period. Moreover, any such "on duty" meal period agreement did not allow for Plaintiff to
7 revoke such an agreement even if it was signed. As such, Plaintiff and others did not always
8 receive statutory, timely meal periods during their employment. To the extent that ENVIRO
9 VIEWS argues that employees receive meal break premium pay for missed meal periods, that
10 argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for the
11 violations themselves, irrespective of whether an employee received the premium payment for a
12 missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court
13 stated, "section 226.7 does not give employers a lawful choice between
14 providing *either* meal and rest breaks *or* an additional hour of pay." See *Kirby v. Immoos Fire*
15 *Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of
16 pay does not excuse the violation; the employer has still committed a violation even if the remedy
17 for the violation has been paid. See *Wert v. U.S. Bancorp.*, (S.D. Cal. Mar. 22, 2016, 2016 WL
18 1110302 at *4). As such, the work environment and culture at ENVIRO VIEWS was not
19 conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover,
20 any meal or rest break premiums paid were not compensated at the weighted average regular
21 rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.
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25 17. Furthermore, during the relevant time period, and due to the above labor code violations,
26 ENVIRO VIEWS failed to pay Plaintiff and other similarly situated aggrieved employees all
27 wages due to them within any time period specified by California Labor Code section 204. Since
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1 Plaintiff was not compensated for his "off the clock" work and since Plaintiff was not paid the
2 correct amount of overtime and did not receive meal and rest break premiums for all late, missed,
3 or short meal/rest periods, Plaintiff would still be owed wages pursuant to Labor Code Section
4 204. ENVIRO VIEWS was also in violation of California Labor Code section 226(a) by failing
5 to include pertinent information on the wage statements, including but not limited to, the correct
6 hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross wages earned,
7 net wages earned, premium pay for missed meal and rest breaks, all deductions, the correct start
8 and end of the pay period, all employee identifying information, the correct and complete name
9 and address of the legal employer, and reimbursement for business expenses, among others. As
10 such, ENVIRO VIEWS did not provide Plaintiff and other similarly situated aggrieved
11 employees with complete, accurate itemized wage statements.
12

13 18. During the relevant time period, ENVIRO VIEWS also failed to keep accurate and
14 complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff
15 and others pursuant to California Labor Code sections 1174(d).
16

17 19. ENVIRO VIEWS also violated Labor Code § 203 because it willfully failed to pay
18 Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation
19 of employment, either immediately upon involuntary termination, or within 72 hours of
20 resignation. These earned but unpaid wages include compensation for all hours worked,
21 including minimum wages, overtime compensation, and premium pay for missed meal and rest
22 breaks.
23

24 20. During the relevant time period, Plaintiff and other aggrieved employees incurred
25 necessary, business-related expenses and costs that were not reimbursed by ENVIRO VIEWS.
26 These costs include, but are not limited to, use of personal cell phones for work purposes and
27 uniforms in that employees such as Plaintiff were responsible for providing their own uniforms
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1 to wear to the workplace and for work. Accordingly, ENVIRO VIEWS was in violation of
2 California Labor Code sections 2800 and 2802.

3 21. Furthermore, ENVIRO VIEWS did not provide proper and correct/accurate sick pay that
4 was also delineated on employee pay stubs and also failed to provide proper sick leave in
5 violation of Labor Code sections 233 and 246. Moreover, there was no suitable seating/rest break
6 facilities for the employees pursuant to Wage Order no. 4-2001.

7 22. Furthermore, Plaintiff believes Defendants have also violated Labor Code Section 558
8 and has engaged in business practices which violate Business and Professions Code Section
9 17200.
10

11 **FIRST CAUSE OF ACTION**

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

13 **(California Industrial Welfare Commission Order 4-2001, California Code of**
14 **Regulations Title 8 Section 11040, and California Labor Code Section 1198)**

15 **(Plaintiff against all named defendants and all DOE defendants)**
16

17 23. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 22, inclusive, of this Complaint as though fully set forth herein.

19 24. At all times relevant herein, Defendants were required to compensate its employees for
20 all hours worked upon reporting for work at the appointed time stated by the employer
21 pursuant to Industrial Welfare Commission Order 4-2001, California Code of Regulations,
22 Title 8, Section 11040.
23

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

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

2 27. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
3 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
4 this Court.

5 28. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
6 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
7 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
8 reasonable attorney's fees and costs of suit.
9

10 29. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
11 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
12 amount known to Plaintiff once he has obtained all of his payroll records from
13 Defendants.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

16 **(California Labor Code Sections 1194, 1194.2, 1197; IWC Wage Order no. 4-2001)**

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

18 30. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 29, inclusive, of this Complaint as though fully set forth herein.
20

21 31. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
22 to suffer or permit a California employee to work without paying wages at the minimum wage
23 rate for all hours worked as required by the applicable Industrial Welfare Commission
24 (hereinafter "IWC") Wage Order No. 4-2001, codified at California Code of Regulations, Title
25 8, Section 11050, subdivision 4.
26

27 32. Pursuant to IWC Wage Order no. 4-2001 subdivision 2(K), at all relevant times, "hours
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1 worked” included “the time during which an employee is subject to the control of an employer,
2 and includes all the time the employee is suffered or permitted to work, whether or not required
3 to do so...”

4 33. Moreover, Pursuant to California Industrial Welfare Commission Order no. 4-2001,
5 Section 9(B), “When tools or equipment are required by the employer or are necessary to the
6 performance of a job, such tools and equipment shall be provided and maintained by the
7 employer, except that an employee whose wages are at least two (2) times the minimum wage
8 provided herein may be required to provide and maintain hand tools and equipment
9 customarily required by the trade or craft.”

10 34. During his employment, Plaintiff was regularly required as a matter of uniform
11 policy and practice to provide and maintain hand tools and equipment customarily required by
12 the trade or craft and was paid less than two times the minimum wage rate by Defendants for
13 hours worked in violation of California Labor Code Section 1197 and the applicable California
14 Industrial Wage Commission wage order(s).

15 35. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
16 permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately
17 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
18 to believe that their acts or omissions were not contrary to California law.

19 36. For all hours worked by Plaintiff for which he was paid less than twice the minimum
20 wage rate by Defendants, Plaintiff is entitled to not less than two times the applicable
21 California minimum wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated
22 damages in an amount equal to unpaid minimum wages and interests thereon. Pursuant to
23 Labor Code Section 1194, Plaintiff is also entitled to attorney’s fees, costs and interests
24 according to proof.
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27
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1 37. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
2 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
3 trial.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME**

6 **(California Industrial Welfare Commission Order 4-2001, California Code of**
7 **Regulations Title 8 Section 11040, California Labor Code sections 510, 1194)**

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

9
10 38. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 37, inclusive, of this Complaint as though fully set forth herein.

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

20 40. Plaintiff was a non-exempt employee entitled to the protections of the California
21 Industrial Welfare Commission Order No. 4-2001, California Code of Regulations, Title 8,
22 Section 11040.
23

24 41. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
25 single workweek on numerous occasions.

26 42. Plaintiff worked more than twelve (12) hours in a single workday.

27 43. Plaintiff was entitled to the above overtime premiums.
28

1 44. Defendants did not pay Plaintiff premium wages of at least one and one-half times
2 Plaintiff's regular correct rate of pay (two times the minimum wage) for hours worked past
3 eight (8) in a day.

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

7 46. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's
8 regular, correct rate of pay (two times the minimum wage) for hours worked past twelve (12)
9 in a day.
10

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

13 48. Defendants know or should know the actual dates of overtime worked, the amount of
14 overtime worked, and the amount of unpaid overtime due.

15 49. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
16 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
17 Court.
18

19 50. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
20 Regulations, Title 8, Sections 11040, Plaintiff is entitled to recover damages for the
21 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
22 reasonable attorney's fees and costs of suit.
23

24 **FOURTH CAUSE OF ACTION**

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

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

27 **(Plaintiff against all named defendants and all DOE defendants)**
28

1 51. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein.

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

5 53. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
6 accurately reflected all information required by Labor Code Section 226, including but not
7 limited to, gross wages earned (regular and overtime hours), net wages earned, premium pay
8 for missed meal and rest breaks, total hours worked by the employee, and all deductions.
9 Therefore, Defendants failed to maintain and provide accurate itemized wage
10 statements to Plaintiff in accordance with California Labor Code Section 226(a).
11

12 54. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
13 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
14 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
15 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
16 reasonable attorney's fees.
17

18 55. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
19 sustained damages, including loss of earnings, in an amount to be established at trial. As a
20 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
21 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
22 and attorney's fees pursuant to statute.
23

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

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FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

57. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 56, inclusive, of this Complaint as though fully set forth herein.

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

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

60. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including twice the minimum wage and the correct amount of overtime as well as premium pay for missed meal and rest breaks, and business expense reimbursement.

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

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

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(Plaintiff against all named Defendants and all DOE defendants)

63. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 62, inclusive, of this Complaint as though fully set forth herein.

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

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

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

67. After Plaintiff's employment with Defendants ended, Defendants willfully refused and continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

68. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year immediately preceding the filing of this lawsuit.

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

70. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged

1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO GIVE REST BREAKS**

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

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

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

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

6 73. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest
7 break after every four (4) hours of work or major fraction thereof, as required by California
8 law.
9

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

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

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

20 **EIGHTH CAUSE OF ACTION**

21 **FAILURE TO GIVE MEAL BREAKS**

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

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

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

- 27 a. California Labor Code section 512(a), which requires that employees be given a 30-
28

1 minute uninterrupted meal break after five (5) hours of work, and a second
2 uninterrupted meal break after ten (10) hours of work;

- 3 b. California Labor Code section 226.7, which states that (a) no employer shall require
4 any employee to work during any meal period mandated by an applicable order of
5 the Industrial Welfare Commission, and (b) if any employer fails to provide an
6 employee a meal period in accordance with an applicable order of the Industrial
7 Welfare Commission, the employer shall pay the employee one (1) additional hour
8 of pay at the employee's regular rate of compensation for each workday that the
9 meal period is not provided;
10
- 11 c. California Industrial Welfare Commission Order No. 4 section 11(B), as codified
12 under Title 8 of the California Code of Regulations Section 11040, which states that
13 if an employer fails to provide an employee a meal period in accordance with the
14 applicable provisions of the Wage Order, the employer shall pay the employee one
15 (1) hour of pay at the employee's regular rate of compensation for each workday
16 that the meal period is not provided;
17
- 18 d. California Industrial Welfare Commission Wage Order No. 4 Section 7(A)(3), as
19 codified under Title 8 of the California Code of Regulations Section 11040, which
20 requires an employer to maintain records documenting its employees' meal periods;
21
- 22 e. California Industrial Welfare Commission wage order No. 4 Section 20(A), as
23 codified under California Code of Regulations Section 11040 , which penalizes the
24 employer \$50.00 for each initial violation, per employee, of any provision of the
25 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
26
- 27 f. California Labor Code section 1171 and 1173, which have given the California
28 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4)

1 as enforceable law.

2 79. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
3 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
4 take a second relieved meal break after ten (10) hours of work, as required by California law.
5 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
6 4, as codified under California Code of Regulations Sections 11040 et. seq. requires that
7 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
8 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
9 duty. California Labor Code section 226.7 provides that employers may not require their
10 employees to work through their meal periods. California Labor Code section 226.7 and
11 California Code of Regulations section 11040 requires that if the employer fails to provide the
12 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
13 of pay for each work day that the meal period is not given.
14

15 80. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
16 regulations, and wage orders alleged in this cause of action along with any allowable interest,
17 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
18 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
19

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

22 82. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
23 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
24 trial.
25

26 **NINTH CAUSE OF ACTION**

27 **PRIVATE ATTORNEYS GENERAL ACT**
28

Individual and Representative Claim for PAGA penalties under California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1171, 1774, 2800, 2802, and IWC Wage Order 4-2001)

(Against All Named Defendants and all DOE Defendants)

83. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 82, inclusive, of this Complaint as though fully set forth herein.

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

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

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

87. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in California Labor Code section 2699.3.

88. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged violator and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of other current and former hourly, non-exempt employees who worked for ENVIRO VIEWS in the State of California during the PAGA

1 period.

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

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

9
10 91. California Labor Code section 2699 et seq. imposes penalties upon culpable
11 Defendants for violating the Labor Code.

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

20
21 93. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
22 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
23 seeking underpaid wages under this particular cause of action.

24
25 94. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
26 the following:

27 95. Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
28

1 226.3, 226.7, 233, 246, 510, 512, 558, 1771, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
2 2800, 2802, via 2698 and 2699 any other Labor Codes and Wage Orders (including no. 4)
3 violated based on the facts alleged in this Complaint.

4 96. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
5 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
6 employees as alleged herein in an amount to be shown according to proof at trial and within the
7 jurisdictional limits of this Court.
8

9 **TENTH CAUSE OF ACTION**

10 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

12
13 97. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 96, inclusive, of this Complaint as thought fully set forth herein.

15 98. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
16 employee for all necessary expenditures or losses incurred by the employee in direct
17 consequence of the discharge of his or her duties."

18 99. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
19 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
20 of completing his job duties, which were not reimbursed by Defendant. These expenses
21 include, but are not limited to, use of personal cell phones for work purposes and uniforms in
22 that employees such as Plaintiff were responsible for providing their own uniforms to wear to
23 the workplace and for work.
24

25 100. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
26 and attorney's fees and costs, under Labor Code section 2802.

27 **ELEVENTH CAUSE OF ACTION**
28

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

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

3 **(Plaintiff against ENVIRO VIEWS and all DOE defendants)**

4 101. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.

6 102. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
7 constitute unfair and unlawful business practices under California Business and Professions
8 Code Section 17200, et seq.

9 103. Defendants' violations of California labor laws constitutes a business practice because
10 it was done repeatedly over a significant period of time in a systematic manner that was
11 detrimental to Plaintiff and other aggrieved employees.

12 104. For the four years preceding the filing of this action, Plaintiff has suffered damages
13 and requests damages and/or restitution of all monies and profits to be disgorged from
14 Defendants in an amount according to proof at time of trial, but in excess of the
15 jurisdiction of this Court.

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

- 18 1. For damages to Plaintiff in an amount subject to proof at trial;
- 19 2. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
- 20 at trial;
- 21 3. For damages and penalties under Labor Code Section 203, 204, and 226 for Plaintiff in
- 22 an amount subject to proof at trial;
- 23 4. For restitution and disgorgement for all unfair business practices by Defendant
- 24 ENVIRO VIEWS Services against Plaintiff in an amount subject to proof at
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1 trial;

2 5. For an order enjoining Defendant ENVIRO VIEWS Services from further unfair
3 and unlawful business practices in violation of Business and Professions Code Sections
4 17200, et seq.;

5
6 6. For special and consequential damages to the extent allowed by law;

7 7. For maximum civil penalties available under the Labor Code and applicable Wage
8 Order against Defendants as described more particularly in the Complaint and
9 representative PAGA claims;

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

14
15 9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
16 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;

17 10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
18 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;

19 11. For the imposition of civil penalties and/or statutory penalties;

20 12. For all interest as allowed by law;

21 13. For all costs and disbursements incurred in this suit;

22 14. Reasonable attorney's fees where available by law, including but not limited to,
23 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
24 the Labor Code generally; and/or other applicable laws; and
25

26 ///

27 ///

1 15. For such other and further relief as this Court may deem proper.
2

3 DATED: January 14, 2025

MESSRELIAN LAW INC.

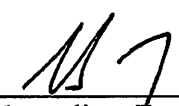
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5 By 
6 Harout Messrelian, Esq.
7 Attorneys for Plaintiff Nixon Cruz Gamez

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
10

11 DATED: January 14, 2025

MESSRELIAN LAW INC.

12
13 By 
14 Harout Messrelian, Esq.
15 Attorneys for Plaintiff Nixon Cruz Gamez
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