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Clerk of Court
Superior Court of CA,
County of Santa Clara
24CV446556
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Attorneys for Plaintiff JESUS LOZANO MADRIGAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

JESUS LOZANO MADRIGAL,

Plaintiff,

vs.

SAN JOSE BUILDING SUPPLIES INC.;
EDWIN LI; GRANITE EXPO HOME
SUPPLY INC.; ACE CABINETRY, INC.;
GE BUILDING SUPPLIES GROUP INC.;
EL CABINET & STONE INC.; ANTIOCH
BUILDING SUPPLIES INC.;
VACAVILLE BUILDING SUPPLIES INC.;
and DOES 1 to 25, inclusive,

Defendants.

CASE NO.: 24CV446556

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 PROVIDE REST BREAKS;**
- 8) **FAILURE TO PROVIDE MEAL BREAKS;**
- 9) **FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 10) **PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 11) **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

JURY TRIAL DEMANDED

COMES NOW Plaintiff, JESUS LOZANO MADRIGAL (hereinafter "Plaintiff"), and
alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Santa Clara in this judicial district because Defendants SAN JOSE BUILDING SUPPLIES INC.; EDWIN LI; GRANITE EXPO HOME SUPPLY INC.; ACE CABINETRY, INC.; GE BUILDING SUPPLIES GROUP INC.; EL CABINET & STONE INC.; ANTIOCH BUILDING SUPPLIES INC.; VACAVILLE BUILDING SUPPLIES INC.; and DOES 1 to 25, inclusive (hereinafter collectively "GRANITE EXPO" or "Defendant(s)") do business in the County of Santa Clara, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Santa Clara 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 Santa Clara, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendants SAN JOSE BUILDING SUPPLIES INC.; GRANITE EXPO HOME SUPPLY INC.; ACE CABINETRY, INC.; GE BUILDING SUPPLIES GROUP INC.; EL CABINET & STONE INC.; ANTIOCH BUILDING SUPPLIES INC.; VACAVILLE BUILDING SUPPLIES INC. are all California corporations, doing business in the County of Santa Clara, State of California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant EDWIN LI is a male resident of the State of California, and the owner, managing agent, and/or director of SAN JOSE BUILDING SUPPLIES INC., dba GRANITE EXPO. Defendant EDWIN LI is being included in this lawsuit pursuant to Labor Code Section 558.1 as he was involved in the day-to-day operations of the business and controlled the hours, wages, and/or working conditions of Plaintiff and other hourly, non-exempt employees. Defendants SAN JOSE BUILDING SUPPLIES INC.; GRANITE EXPO HOME SUPPLY INC.; ACE

1 CABINETRY, INC.; GE BUILDING SUPPLIES GROUP INC.; EL CABINET & STONE
2 INC.; ANTIOCH BUILDING SUPPLIES INC.; VACAVILLE BUILDING SUPPLIES INC.
3 and EDWIN LI are collectively referred to herein as "Defendant(s)" (unless otherwise noted)
4 or "GRANITE EXPO". San Jose Building Supplies Inc. dba Granite Expo and EDWIN LI as
5 well as Granite Expo Home Supply, Inc., EL Cabinet & Stone, Inc., GE Building Supplies
6 Group, Inc., Ace Cabinetry, Inc., Antioch Building Supplies, Inc., and Vacaville Building
7 Supplies Inc. are all considered "joint employers" in that they each controlled
8 the wages, hours, and/or working conditions of Plaintiff and others. Furthermore, the
9 aforementioned entities are an "integrated enterprise" under the law. The integrated enterprise
10 test sets forth four factors for assessing whether two entities are considered a single entity for
11 purposes of liability: (1) interrelation of operations; (2) common management; (3) centralized
12 control of labor relations; and (4) common ownership or financial control. Even though one
13 does not have to show proof of all factors to prevail on an integrated enterprise claim, here all
14 four factors are unequivocally met as all companies and entities have the same ownership and
15 management. Furthermore, there is centralized control of labor relations and there is
16 interrelation of operations considering the fact that employees from one business also worked
17 for the other business.

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

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

5 **GENERAL ALLEGATIONS**

6 7. Plaintiff started working at GRANITE EXPO on or around 2022 as a laborer/installer.
7 Plaintiff was seemingly classified as an hourly, non-exempt employee. Plaintiff's employment
8 seemingly ended on or around February 2024.

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

3 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
4 other employees, it allows for suits broader than the specific violations the named
5 employee experienced. Therefore, even if the employee did not personally experience the
6 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is
7 Plaintiff’s position that Plaintiff can equivocally bring the following labor code violations on
8 behalf of all other employees, including ALL hourly, non-exempt employees, irrespective of
9 job title or job duties who worked for GRANITE EXPO at any of their locations in California
10 during the relevant PAGA period.
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12 10. It is Plaintiff’s position that GRANITE EXPO has violated the following Labor Code
13 Sections against Plaintiff and other similarly situated aggrieved employees, who include all
14 non-exempt, hourly employees who worked for GRANITE EXPO at their various locations in
15 the State of California during the relevant PAGA period.
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17 11. GRANITE EXPO violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it
18 failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked,
19 including the statutory minimum wage for all hours worked and for “off the clock” work. This
20 is so because GRANITE EXPO had a company policy wherein they would disproportionately
21 round down the number of hours worked, resulting in “time shaving” and further resulting in
22 aggrieved employees not being paid for all hours worked. Furthermore, and to the extent that
23 Plaintiff and others worked through their meal periods while “off the clock” or their meal
24 periods were interrupted (which happened often), they were not compensated for all hours
25 worked, which would be akin to a minimum wage violation. Moreover, GRANITE EXPO
26 failed to provide its employees with proper and accurate reporting time pay.
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1 12. Additionally, pursuant to California Industrial Welfare Commission Order No. 4-
2 2001/7-2001, Section 9(B), "When tools or equipment are required by the employer or are
3 necessary to the performance of a job, such tools and equipment shall be provided and
4 maintained by the employer, except that an employee whose wages are at least two (2) times
5 the minimum wage provided herein may be required to provide and maintain hand tools and
6 equipment customarily required by the trade or craft." GRANITE EXPO unequivocally
7 required its employees, including installer and laborers like Plaintiff, to provide their own hand
8 tools for the performance of their job duties, including drills, screwdrivers, and other similar
9 tools. As such, GRANITE EXPO violated the aforementioned IWC Wage Orders in that
10 GRANITE EXPO required its employees, including Plaintiff, to provide and maintain hand
11 tools and equipment customarily required by the trade but did NOT compensate these
12 employees at least two (2) times the minimum wage at all times during their employment
13 tenure. Plaintiff's latest rate of pay was \$23.00 per hour which is definitely not two times the
14 state minimum wage.
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17 13. Due to the above "off the clock" violations, GRANITE EXPO also violated Labor
18 Code §510 because it failed to pay Plaintiff and other aggrieved employees overtime
19 compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or
20 40 hours per week throughout their employment. Plaintiff's and other aggrieved employees'
21 actual work hours entitled them to overtime compensation, however, GRANITE EXPO did not
22 compensate its hourly, non-exempt employees with overtime or the correct amount of overtime
23 due to the "off the clock" work and time shaving as described above and due to overall
24 company policy. In fact, Plaintiff worked overtime weekly due to working Monday through
25 Saturday for 8-8.5 per day, however, Plaintiff was not compensated for daily overtime or
26 weekly overtime in contravention of California law. Furthermore, GRANITE EXPO failed to
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1 include bonuses/incentive payments/health reimbursements in calculating employees' regular
2 rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the incentive
3 and bonus payments were also not factored into employees' regular rate for purposes of
4 receiving meal and rest break premiums per the Ferra v. Loews case.

5 14. GRANITE EXPO also violated Labor Code § 226.7 and the appropriate Industrial
6 Welfare Commission Wage Order no. 4/7 because it failed to provide Plaintiff and other
7 similarly situated aggrieved employees with 10-minute rest periods for every four hours of
8 work, or majority portion thereof, throughout their employment. GRANITE EXPO did not
9 completely relieve Plaintiff and others of all duty during said rest periods. GRANITE EXPO
10 did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular rate of
11 compensation for each workday that one or more statutory rest periods was not provided. It
12 was not part of the company policy for employees such as Plaintiff to take at least two timely,
13 uninterrupted rest breaks per shift. The concept of rest breaks was not consistently
14 implemented as it was not company policy. As such, the culture as well as the policies and
15 procedures of GRANITE EXPO did not lend itself to the employees receiving consistent
16 statutory rest breaks wherein they were relieved of all work duties. The environment at
17 GRANITE EXPO was not conducive to receiving multiple statutory rest breaks under
18 California law and timely, statutory rest breaks were not authorized or enforced.

21 15. GRANITE EXPO violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
22 Welfare Commission Wage Order no. 4/7 because it failed to provide hourly, non-exempt
23 employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods
24 for every five (5) hours of work throughout their employment. GRANITE EXPO did not
25 completely relieve Plaintiff and other employees of all duty during said meal
26 periods. GRANITE EXPO did not pay to Plaintiff and its hourly, non-exempt employees one
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1 additional hour of pay at their regular rate of compensation for each workday that one or more
2 statutory meal periods was not provided. The hourly, non-exempt employees would often not
3 be able to consistently receive timely, uninterrupted meal breaks. Moreover, even if aggrieved
4 employees were able to take meal breaks, the meal breaks would be late and after the 5th hour
5 worked or they would be interrupted. The latter was due to the workload and due to having
6 deadlines to meet in terms of the installation work that needed to be done. Like the rest breaks,
7 receiving a thirty-minute uninterrupted and timely meal break was not part of the company
8 culture and was not enforced by GRANITE EXPO. Consequently, it was the normal practice
9 and custom of GRANITE EXPO not to authorize, permit, and enforce timely statutory meal
10 periods. If GRANITE EXPO had Plaintiff sign a meal period waiver, it would not be valid and
11 enforceable since Plaintiff and others generally worked more than a 6-hour shift. If GRANITE
12 EXPO had Plaintiff sign an on-duty meal period agreement wherein Plaintiff agreed to work
13 through the meal periods, it would be invalid and unenforceable because the nature of
14 Plaintiff's job does not and did not prevent him from taking a meal period and the company
15 could have hired "breakers" to relieve Plaintiff of his job duties so that he can actually take a
16 timely, uninterrupted meal period. Moreover, any such "on duty" meal period agreement did
17 not allow for Plaintiff to revoke such an agreement even if it was signed. As such, Plaintiff and
18 others did not always receive statutory, timely meal periods during their employment. To the
19 extent that GRANITE EXPO argues that Plaintiff and others were paid to work through their
20 meal period, this argument is not compelling due to the position that there was no valid meal
21 period waiver in place and even if there was, it is still a violation to prevent an employee from
22 taking a meal break in order to rest and recover. To the extent that GRANITE EXPO argues
23 that employees receive meal break premium pay for missed, late or short meal and rest periods,
24 that argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for
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1 the violations themselves, irrespective of whether an employee received the premium payment
2 for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the
3 Court stated, “section 226.7 does not give employers a lawful choice between
4 providing *either* meal and rest breaks *or* an additional hour of pay.” See *Kirby v. Immoos Fire*
5 *Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of
6 pay does not excuse the violation; the employer has still committed a violation even if the
7 remedy for the violation has been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016,
8 2016 WL 1110302 at *4). As such, the work environment and culture at GRANITE EXPO was
9 not conducive to receiving consistent, timely, statutory meal breaks under California law.
10 Moreover, any meal or rest break premiums paid were not compensated at the weighted
11 average regular rate, inclusive of bonuses and/or incentive payments as well as overtime
12 compensation.
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14 16. Furthermore, during the relevant time period, and due to the above labor code
15 violations, GRANITE EXPO failed to pay Plaintiff and other similarly situated aggrieved
16 employees all wages due to them within any time period specified by California Labor Code
17 section 204. GRANITE EXPO was also in violation of California Labor Code section 226(a)
18 by failing to include pertinent information on the wage statements, including but not limited to,
19 the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross
20 wages earned, net wages earned, premium pay for missed meal and rest breaks, all deductions,
21 the correct start and end of the pay period, all employee identifying information, the correct
22 and complete name and address of the legal employer, and reimbursement for business
23 expenses, among others. As such, GRANITE EXPO did not provide Plaintiff and other
24 similarly situated aggrieved employees with complete, accurate itemized wage statements.
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27 17. During the relevant time period, GRANITE EXPO also failed to keep accurate and
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1 complete payroll records showing the actual hours worked per day and the wages paid to
2 Plaintiff and others pursuant to California Labor Code sections 1174(d).

3 18. GRANITE EXPO also violated Labor Code § 203 because it willfully failed to pay
4 Plaintiff and other similarly situated aggrieved employees earned and due wages upon
5 separation of employment, either immediately upon involuntary termination, or within 72
6 hours of resignation. These earned but unpaid wages include compensation for all hours
7 worked, including minimum wages, overtime compensation, and premium pay for missed meal
8 and rest breaks.

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10 19. During the relevant time period, Plaintiff and other aggrieved employees incurred
11 necessary, business-related expenses and costs that were not reimbursed by GRANITE EXPO.
12 These costs include, but are not limited to, uniforms, use of personal cell phones for work
13 purposes as well as equipment, including hand tools as mentioned above, to effectuate their job
14 duties. Accordingly, GRANITE EXPO was in violation of California Labor Code sections
15 2800 and 2802.

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17 20. Furthermore, GRANITE EXPO did not provide proper and correct/accurate sick pay
18 that was also delineated on employee pay stubs and also failed to provide proper sick leave in
19 violation of Labor Code sections 233 and 246. Moreover, there was no suitable seating/rest
20 break facilities for the employees pursuant to Wage Order no. 4-2001/7-2001.

21 21. Furthermore, Plaintiff believes Defendants have also violated Labor Code Section 558
22 and have engaged in business practices which violate Business and Professions Code Section
23 17200.

24
25 **FIRST CAUSE OF ACTION**

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

27 **(California Industrial Welfare Commission Order 4-2001/7-2001, California Code of**
28 **Regulations Title 8 Section 11040/11070, and California Labor Code Section 1198)**

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

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

4 23. At all times relevant herein, Defendants were required to compensate its employees for
5 all hours worked upon reporting for work at the appointed time stated by the employer
6 pursuant to Industrial Welfare Commission Order 4-2001/7-2001, California Code of
7 Regulations, Title 8, Section 11040/11070.

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

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

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

16 27. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
17 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
18 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
19 reasonable attorney's fees and costs of suit.

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

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY MINIMUM WAGES**

26 **(California Labor Code Sections 1194, 1194.2, 1197)**

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

1 29. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 28, inclusive, of this Complaint as though fully set forth herein.

3 30. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
4 to suffer or permit a California employee to work without paying wages at the minimum wage
5 rate for all hours worked as required by the applicable Industrial Welfare Commission
6 (hereinafter "IWC") Wage Order No. 4-2001/7-2001, codified at California Code of
7 Regulations, Title 8, Section 11040/11070, subdivision 4.

8 31. Pursuant to IWC Wage Order no. 4-2001/7-2001, subdivision 2(K)/(H), at all relevant
9 times, "hours worked" included "the time during which an employee is subject to the control of
10 an employer, and includes all the time the employee is suffered or permitted to work, whether
11 or not required to do so..."

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

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

21 34. For all hours worked by Plaintiff for which he was paid less than the minimum wage
22 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
23 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
24 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
25 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

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

THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(California Industrial Welfare Commission Order 4-2001/7-2001, California Code of Regulations Title 8 Section 11040/11070; California Labor Code Section 510)
(Plaintiff against all named defendants and all DOE defendants)

36. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 35, inclusive, of this Complaint as though fully set forth herein.

37. Pursuant to Industrial Welfare Commission Order No. 4-2001/7-2001, Cal. Code of Regs., Title 8, Section 11040/11070, for the period of Plaintiff's employment, Defendants were required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

38. Plaintiff was a non-exempt employee entitled to the protections of the California Industrial Welfare Commission Order No. 4-2001/7-2001, California Code of Regulations, Title 8, Section 11040/11070.

39. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a single workday or forty (40) hours in a single workweek on numerous occasions.

40. Plaintiff was entitled to the above overtime premiums.

41. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past twelve (12) in a day.

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

1 43. Plaintiff worked at least one pay period in which he was not properly paid overtime
2 within the three (3) years prior to the initiation of this lawsuit.

3 44. Defendants know or should know the actual dates of overtime worked, the amount of
4 overtime worked, and the amount of unpaid overtime due.

5 45. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
6 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
7 Court.

8 46. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
9 Regulations, Title 8, Sections 11040/11070, Plaintiff is entitled to recover damages for the
10 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
11 reasonable attorney's fees and costs of suit.

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

15 **FOURTH CAUSE OF ACTION**

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

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

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

19 48. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 47, inclusive, of this Complaint as though fully set forth herein.

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

23 50. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
24 accurately reflected all information required by Labor Code Section 226, including but not
25 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
26 missed meal and rest breaks, net wages earned, total hours worked by the employee, and all
27 deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage
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1 statements to Plaintiff in accordance with California Labor Code Section 226(a).

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

7 52. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
8 sustained damages, including loss of earnings, in an amount to be established at trial. As a
9 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
10 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
11 and attorney's fees pursuant to statute.

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

15 **FIFTH CAUSE OF ACTION**

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

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

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

19 54. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

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

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

25 57. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
26 informed, believes, and thereon alleges, that all times relevant during the liability period,
27 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
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1 including overtime hours, the minimum wage, and premium pay for missed meal and rest
2 breaks.

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

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

10 **SIXTH CAUSE OF ACTION**

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

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

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

14 60. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 59, inclusive, of this Complaint as though fully set forth herein.

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

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

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

26 64. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
27 continue to refuse to pay his unpaid wages as required by Labor Code Section 203.
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1 65. 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. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
4 preceding the filing of this lawsuit.

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

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

11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO GIVE REST BREAKS**

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

14 68. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

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

- 17 a. Title 8 of the California Code of Regulations Sections 11040/11070(12)(A), which
18 provides that every employer shall authorize and permit all employees to take rest
19 periods, which insofar as practicable shall be in the middle of each work period.
20 The authorized rest period time shall be based on the total hours worked daily at the
21 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
22
23 b. Title 8 of the California Code of Regulations Sections 11040/11070(12)(B), which
24 provides that if an employer fails to provide an employee a rest period in
25 accordance with the applicable provisions of this order, the employer shall pay the
26 employee one (1) hour of pay at employee's regular rate of compensation for each
27 workday that the rest period is not provided;
28

1 c. Title 8 of the California Code of Regulations sections 11040/11070(20)(A), which
2 penalizes the employer \$50.00 for each initial violation, per employee, of any
3 provision of the Wage Order, and \$100.00 for each additional violation thereafter
4 per employee; and

5 d. California Labor Code section 226.7, which states that (a) no employer shall require
6 any employee to work during any rest period mandated by an applicable order of
7 the Industrial Welfare Commission, and (b) if an employer fails to provide an
8 employee a rest period in accordance with an applicable order of the Industrial
9 Welfare Commission, the employer shall pay the employee one (1) additional hour
10 of pay at employee's regular rate of compensation for each work day that the rest
11 period is not provided.
12

13 70. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
14 rest break after every four (4) hours of work or major fraction thereof, as required by California
15 law.
16

17 71. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
18 regulations, and wage orders alleged in this cause of action along with any allowable interest,
19 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
20 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
21

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

24 73. 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.

27 **EIGHTH CAUSE OF ACTION**

28 **FAILURE TO GIVE MEAL BREAKS**

(Plaintiff against all named defendants and all DOE defendants)

74. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

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

- a. California Labor Code section 512(a), which requires that employees be given a 30-minute uninterrupted meal break after five (5) hours of work, and a second uninterrupted meal break after ten (10) hours of work;
- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- c. California Industrial Welfare Commission Order No. 4/7section 11(B), as codified under Title 8 of the California Code of Regulations Section 11040/11070, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 4/7Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11040/11070, which requires an employer to maintain records documenting its employees' meal periods;

- 1 e. California Industrial Welfare Commission wage order No. 4/7Section 20(A), as
2 codified under California Code of Regulations Section 11040/11070, which
3 penalizes the employer \$50.00 for each initial violation, per employee, of any
4 provision of the Wage Order, and \$100.00 for each additional violation thereafter
5 per employee; and
6
7 f. California Labor Code section 1171 and 1173, which have given the California
8 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4
9 and 7) as enforceable law.

10 76. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
11 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
12 take a second relieved meal break after ten (10) hours of work, as required by California law.
13 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
14 5, as codified under California Code of Regulations Sections 11040/11070 et. seq. requires that
15 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
16 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
17 duty. California Labor Code section 226.7 provides that employers may not require their
18 employees to work through their meal periods. California Labor Code section 226.7 and
19 California Code of Regulations section 11040/11070 requires that if the employer fails to
20 provide the employee with an uninterrupted meal period, the employer must pay the employee
21 one (1) hour of pay for each work day that the meal period is not given.
22

23 77. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
24 regulations, and wage orders alleged in this cause of action along with any allowable interest,
25 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
26 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
27

28 78. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's

1 fees as well as interest under Labor Code section 218.6.

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

5 **NINTH CAUSE OF ACTION**

6 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

7 **(Plaintiff against All Named Defendants and all DOE defendants)**

8 80. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 79, inclusive, of this Complaint as though fully set forth herein.

10 81. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
11 employee for all necessary expenditures or losses incurred by the employee in direct
12 consequence of the discharge of his or her duties."
13

14 82. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
15 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
16 of completing his job duties, which were not reimbursed by Defendant. These expenses
17 include, but are not limited to, uniforms, use of personal cell phones for work purposes as well
18 as equipment, including hand tools as mentioned above, to effectuate their job duties.

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

21 **TENTH CAUSE OF ACTION**

22 **PRIVATE ATTORNEYS GENERAL ACT**

23 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
24 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5,**
1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802 and IWC Wage Orders 4/7)

25 **(Plaintiff against All Named Defendants and all DOE defendants)**

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

28 85. Plaintiff has complied with the procedures for bringing suit specified in California

1 Labor Code § 2699.3. By letters dated March 15, 2024 and May 16, 2024, Plaintiff gave written
2 notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and
3 Defendants of the specific provisions of the California Labor Code alleged to have been violated,
4 including the facts and theories to support the alleged violations.

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

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

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

17 89. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
18 violator and had one or more of the alleged violations committed against him, and therefore is
19 properly suited to represent the interests of other current and former employees, including all
20 current and former hourly, non-exempt employees who worked for GRANITE EXPO at any and
21 all locations in the State of California during the applicable PAGA Period.

22 90. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties
23 under California Labor Code sections 2698 and 2699 because of Defendants’ violations of
24 numerous provisions of the California Labor Code as alleged in this Complaint.

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

92. California Labor Code section 2699 et seq. imposes penalties upon culpable

1 Defendants for violating the Labor Code.

2 93. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
3 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
4 seeking individual penalties/victim specific relief or underpaid wages for himself or other
5 employees under this specific PAGA cause of action. Plaintiff has separate causes of action in
6 this Complaint for individual wages but is not seeking wages through the PAGA action.

7 94. Specifically, Plaintiff seeks penalties under California Labor Code
8 section 2699, for the following:

9 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
10 226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800,
11 2802, and any other Labor Codes/Industrial Welfare Commission Order (Nos. 4/7) violated
12 based on the facts alleged in this Complaint.

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

17 **ELEVENTH CAUSE OF ACTION**

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

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

20 **(Plaintiff against All Named Defendants except EDWIN LI and all DOE defendants)**

21 96. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 95, inclusive, of this Complaint as though fully set forth herein.

23 97. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
24 constitutes unfair and unlawful business practices under California Business and Professions
25 Code Section 17200, et seq.

26 98. Defendant's violations of the California labor laws and the Labor Code
27 constitutes a business practice because it was done repeatedly over a significant period of time
28

1 in a systematic manner that was detrimental to Plaintiff and other employees.

2 99. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
3 reasonable attorneys' fees and costs of said suit as specifically provided in California Code of
4 Civil Procedure Section 1021.5 and California Business and Professions Code section 17200 et
5 seq.

6 100. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
7 multiple damages as specifically provided in California Business and Professions Code section
8 17200 et seq.

9 101. For the four years preceding the filing of this action, Plaintiff requests
10 restitution of all monies and profits to be disgorged from Defendants in an amount according to
11 proof at time of trial, but in excess of the jurisdiction of this Court.

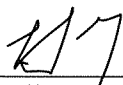
12 **PRAYER FOR RELIEF**

- 13 1. For compensatory damages including lost past and future wages, overtime,
14 commissions, and all other sums of money, including employment benefits, together
15 with interest on said amounts, and any other economic injury to Plaintiff, according to
16 proof;
- 17 2. For special and consequential damages to the extent allowed by law;
- 18 3. For restitution and disgorgement for all unfair business practices by corporate
19 Defendants against Plaintiff in an amount according to proof;
- 20 4. For an order enjoining corporate Defendants from further unfair and unlawful business
21 practices in violation of Business and Professions Code section 17200, et seq.;
- 22 5. For damages and penalties against Defendants under Labor Code sections 203/204/210/
23 226 for Plaintiff in an amount subject to proof at trial;
- 24 6. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
25 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
- 26 7. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half
27 (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
- 28 8. For maximum civil penalties available under the Labor Code and applicable Wage Order

- 1 against Defendant as described more particularly in the Complaint and Representative
2 PAGA claim/action;
- 3 9. For all remedies available to Plaintiff under the applicable Wage Order and the
4 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
5 liquidated damages, damages, penalties, and waiting time penalties according to proof
6 to the extent permitted by law;
- 7 10. For the imposition of civil penalties and/or statutory penalties;
- 8 11. Reasonable attorney's fees where available by law, including but not limited to,
9 pursuant to the California Labor Code, including section 2698, and/or other
10 applicable laws; and
- 11 12. Costs and expenses of suit incurred herein;
- 12 13. For all interest as allowed by law;
- 13 14. For such other and further relief as the Court deems just and proper.

14 DATED: September 3, 2024

MESSRELIAN LAW INC.

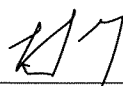
15
16 By 
17 Harout Messrelian, Esq.
Attorneys for Plaintiff Jesus Lozano Madrigal

18
19 **DEMAND FOR JURY TRIAL**

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

21
22 DATED: September 3, 2024

MESSRELIAN LAW INC.

23
24 By 
25 Harout Messrelian, Esq.
Attorneys for Plaintiff Jesus Lozano Madrigal