

SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

KTi, INCORPORATED, a California Corporation, TGP PRESSURE, INC., a California corporation, THOMPSON PIPE GROUP, INC., a California corporation; and DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

WILLIAM PINEDA MAGANA, individually, and on behalf of all other aggrieved employees,

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

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
7/3/2024

By: Jocelin Acosta, DEPUTY

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

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

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER
(Número del Caso): CIVSB2420733

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
247 WEST 3RD STREET
SAN BERNARDINO, CALIFORNIA 92415

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

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

SCOTT ERNEST WHEELER (SBN 187998)
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711

LAW OFFICE OF SCOTT ERNEST WHEELER
TELEPHONE: (909) 621-4988
FACSIMILE: (909) 621-4622

DATE: 7/3/2024
(Fecha)

Clerk, by /s/ Jocelin Acosta, Deputy
(Secretario) (Adjunto)

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

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

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

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

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

1 **LAW OFFICE OF SCOTT ERNEST WHEELER**

2 Scott Ernest Wheeler (SBN 187998)

3 Justin A. Wheeler (SBN 342226)

4 250 West First Street, Suite 216

5 Claremont, California 91711

6 Telephone: (909) 621-4988

7 Facsimile: (909) 621-4622

8 Email: sew@scottwheelerlawoffice.com

9 jaw@scottwheelerlawoffice.com

10 *Attorneys for Plaintiff and the Aggrieved Employees*

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
6/20/2024 3:01 PM
By: Jocelin Acosta, DEPUTY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN BERNARDINO**

13 **SAN BERNARDINO JUSTIC CENTER**

14 WILLIAM PINEDA MAGANA, individually,
15 and on behalf of all other aggrieved
16 employees,

17 **PLAINTIFF,**

18 **v.**

19 KTI, INCORPORATED, a California
20 Corporation, TGP PRESSURE, INC., a
21 California corporation, THOMPSON PIPE
22 GROUP, INC., a California corporation; and
23 DOES 1 through 50, inclusive,

24 **DEFENDANTS.**

CASE NO.: CIVSB2420733

**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
("PAGA")**

[California Labor Code § 2698 *et seq.*]

1 This is a representative action brought by William Pineda Magana, individually and on
2 behalf of all other aggrieved employees ("Plaintiff"), relating to systemic violations of California
3 wage and hour laws by his former employers, KTI, Incorporated ("KTI"), TGP Pressure, Inc.
4 ("TGP"), and Thompson Pipe Group, Inc. ("TPG") (herein collectively referred to as "Defendants").
5 Plaintiff makes the following allegations on information and belief, except as to allegations
6 pertaining to Plaintiff individually, which are based on his personal knowledge.

7 INTRODUCTION

8 1. Defendant KTI is a private, for-profit business that develops, manufactures, and
9 installs drainage, sanitary, pressure and trenchless pipes for municipal and irrigation pipe projects
10 across North America. KTI specifically manufactures steel, fiberglass-reinforced plastic, and
11 concrete pipe as well as joints and fittings.

12 2. Defendant TGP is a private, for-profit business that develops, manufactures, and
13 installs drainage, sanitary, pressure and trenchless pipes for municipal and irrigation pipe projects
14 across North America. TGP specifically manufactures steel, fiberglass-reinforced plastic, and
15 concrete pipe as well as joints and fittings.

16 3. Defendant TPG is a private, for-profit business that develops, manufactures, and
17 installs drainage, sanitary, pressure and trenchless pipes for municipal and irrigation pipe projects
18 across North America. TPG specifically manufactures steel, fiberglass-reinforced plastic, and
19 concrete pipe as well as joints and fittings.

20 4. As private, for-profit businesses, Defendants implemented common policies and
21 practices that resulted in systemic violations of California's wage and hour laws. Defendants have
22 failed to implement adequate practices to protect the rights of its employees, particularly in light the
23 nature of their businesses, which is to maximize profits.

24 5. Defendants attempt to maximize profits by among other methods, understaffing of
25 their facility and denying employees the ability to take meal and rest breaks.

26 6. Defendants have implemented unlawful written policies with respect to meal and rest
27 breaks. Defendants also require their non-exempt employees, who are informed that the needs of the
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1 businesses take top priority, to work through meal and rest breaks, to take untimely meal periods and
2 to remain on call during such breaks. As a result, Plaintiff and other aggrieved employees have been
3 denied the ability to take the meal and rest breaks that they were and are legally entitled to take.

4 7. Moreover, Defendants have uniformly failed to pay Plaintiff and other aggrieved
5 employees proper overtime wages due the fact that they improperly calculate the highest regular rate
6 of pay based upon nondiscretionary bonus and commission payments; and willfully turn a blind eye
7 to off-the-clock work that Plaintiff and other non-exempt employees perform as a direct
8 consequence of Defendants' understaffing and imposition of an unreasonable workload.

9 **JURISDICTION AND VENUE**

10 8. The Superior Court of the State of California has jurisdiction in this matter because
11 Plaintiff is a citizen and resident of the State of California, and Defendants are citizens and residents
12 of, and/or regularly conduct business in, the State of California.

13 9. Venue is proper in this judicial district and the County of San Bernardino, California
14 since Defendants maintains offices in Rialto, California, a city located within the County of San
15 Bernardino, in addition Defendants' unlawful actions and omissions, as set alleged herein, occurred
16 in the County of San Bernardino.

17 10. Defendants employed Plaintiff and other aggrieved employees within the State of
18 California and the unlawful acts alleged herein have a direct effect on Plaintiff and other aggrieved
19 employees.

20 11. The State of California, County of Los Angeles, has jurisdiction in this matter because
21 the individual claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional
22 threshold and the five million dollar (\$5,000,000.00) aggregate jurisdictional threshold for federal
23 court diversity jurisdiction. Further, there is no federal question at issue as the issues herein are based
24 solely on the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil
25 Procedure and Rules of Court. Thus, the State of California, Superior Court maintains the appropriate
26 jurisdiction to hear this matter.

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1 informed and believes, and thereon alleges, that each defendant designated as a DOE is in some
2 manner highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved
3 employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such
4 DOE defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true
5 names and capacities of such DOE defendants when ascertained.

6 19. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
7 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
8 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
9 attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer
10 and/or joint employer of Plaintiff and the other aggrieved employees.

11 20. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
12 in all respects as the agent, servant, partner, joint venture, alter-ego, employee, integrated enterprise,
13 proxy, managing agent, and/or principal of the co-Defendants, and in performing the acts mentioned
14 below was acting, at least in part, within the course and scope of that authority as such agent, proxy,
15 servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the
16 permission and consent of the above co-Defendants. Plaintiff also alleges that the acts of each
17 Defendant are legally attributable to the other Defendants.

18 21. Plaintiff is informed and believes, and based thereon alleges, that each of the
19 Defendants sued herein were, at all relevant times, the employer, owner, shareholder, principal, joint
20 venture, alter-ego, employee, proxy, managing agent, and/or principal of the remaining Defendants,
21 and were acting, at least in part, within the course and scope of such employment and agency, with
22 the express and implied permission, consent and knowledge, approval and/or ratification of the other
23 Defendants. The above co-Defendants, managing agents, and supervisors, aided, abetted, condoned,
24 permitted, approved, authorized, and/or ratified the unlawful acts described herein.

25 22. As a direct and proximate result of the unlawful actions of Defendants, Plaintiff and
26 the other aggrieved employees have suffered and continue to suffer penalties in amounts as yet
27 unascertained but subject to proof at trial and within the jurisdiction of this Court.

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1 Defendants systematically understaff their facilities such that their non-exempt employees are given
2 so much work to complete that they regularly miss or take non-compliant meal periods. As a direct
3 consequence of this understaffing, Plaintiff and aggrieved employees have so much work to
4 complete within their scheduled shifts that they are forced to skip their meal periods altogether, to
5 take them after working longer than five (5) hours, to perform work during their meal periods, or
6 return to work after taking less than a thirty (30) minute meal period. Moreover, Plaintiff and the
7 other aggrieved employees were not allowed to take a second meal period after working longer than
8 ten (10) hours or more, or take a third meal period when working longer than fifteen (15) hours or
9 more.

10 27. There are also frequently occasions when Plaintiff and aggrieved employees need to
11 perform other duties immediately before the time during which they are legally entitled to take a
12 meal period. Pursuant to Defendants' policies, Plaintiff and aggrieved employees cannot simply
13 drop their urgent job duties to take a meal period. Consequently, Plaintiff and aggrieved employees
14 regularly miss meal periods, take late meal periods, return early from meal periods, and even clock
15 out for meal periods but continue working.

16 28. Plaintiff and aggrieved employees need to first secure permission before taking a
17 meal period despite the fact they may be scheduled to take a meal period. However, Plaintiff and
18 aggrieved employees often cannot simply stop working and take their meal period, which often
19 causes them to regularly miss, take late or untimely meal periods, and otherwise take non-compliant
20 meal periods.

21 29. Plaintiff is informed and believes that Defendants failed to maintain records relating
22 to meal periods taken and "auto-deducted" meal periods and/or round meal periods to make it appear
23 that Plaintiff and the other aggrieved employees are taking full, thirty (30) minute meal periods.

24 30. Finally, Defendants failed to pay the correct regular rate of pay for missed meal
25 period premium payments for Plaintiff and the other aggrieved employees at the correct regular rate
26 of pay based upon incentive payments, commissions, and bonus payments.

27 31. Despite the foregoing, Defendants have implemented a policy and practice of actively
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1 discouraging the issuance of meal period premium payments, and in the process, Defendants have
2 also violated California Labor Code §§ 226.7, § 11 of the applicable IWC Wage Order, and the
3 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to
4 compensate Plaintiff and aggrieved employees who were not authorized and permitted to take a
5 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper
6 regular rate of pay for each workday that such a meal period was not authorized or permitted.

7 **Failure to Provide Required Rest Breaks**

8 **[Cal. Lab. Code §§ 226.7, 512; § 12 of the Applicable IWC Wage Order]**

9 32. During the statute of limitations period, as part of Defendants' illegal policies and
10 practices to minimize labor costs and maximize corporate profits, Defendants have failed to
11 authorize and permit Plaintiff and other aggrieved employees to take rest breaks as required under
12 California Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Order.

13 33. The same common policies and practices that deprive Plaintiff and other aggrieved
14 employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to
15 take their first and second and third rest breaks. As alleged herein, Defendants understaff their
16 facilities which creates so much work for Plaintiff and other aggrieved employees that they are
17 frequently unable to take rest breaks. Moreover, Plaintiff and other aggrieved employees need to
18 secure permission before taking a rest break, which is often denied by supervisors. Finally,
19 Defendants failed to pay the correct regular rate of pay for missed meal period premium payments
20 for Plaintiff and the other aggrieved employees at the correct regular rate of pay based upon
21 incentive payments, commissions, and bonus payments.

22 34. Defendants also violated California Labor Code § 226.7, § 12 of the applicable IWC
23 Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by
24 failing to pay Plaintiff and other aggrieved employees who were not provided with a rest break, in
25 accordance with the applicable wage order, one additional hour of compensation at the proper
26 regular rate of pay for each workday that a rest break was not provided.

Failure to Pay Overtime Wages

[Cal. Lab. Code §§ 510, 1194, 1198; § 3 of the Applicable IWC Wage Order]

35. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order, Defendants are required to compensate Plaintiff and other aggrieved employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

36. Plaintiff and other aggrieved employees are current and former non-exempt employees entitled to the protections of California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order. During the statute of limitations period, Defendants have failed to compensate Plaintiff and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the California Labor Code and IWC Wage Order by, among other methods: failing to pay overtime at one and one-half (1½) or double the regular rate of pay as provided by California Labor Code §§ 510, 1194 and § 3 of the applicable IWC Order, requiring, permitting or suffering Plaintiff and other aggrieved employees to work off-the-clock, and to work through meal and rest breaks, but not compensating them for this time, improperly calculating the highest regular rate of pay based on nondiscretionary bonus payments, shift differentials and other remuneration, illegally rounding the hours worked by Plaintiff and the other aggrieved employees to the benefit of Defendants resulting in the underpayment of wages to Plaintiff and the other aggrieved employees; and other methods to be discovered.

37. Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in violation of California Labor Code §§ 510, 1194 and 1198 and § 3 of the applicable IWC Order.

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(continued)

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1 for labor in excess of the normal work period shall be paid no later than the payday of the next regular
2 payroll period.

3 42. During the statute of limitations period, Defendants have knowingly and willfully
4 failed to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the
5 next regular payroll period as required by California Labor Code § 204, including but not limited to,
6 compensation for missed meal and rest breaks, proper overtime wages due to an unlawful calculation
7 of the regular rate of pay, and for work performed off-the-clock.

8 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

9 **[Cal. Lab. Code §§ 201 - 203]**

10 43. Pursuant to California Labor Code § 201, 202 and 203, Defendants are required to
11 pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201
12 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at
13 the time of discharge are due and payable immediately.

14 44. Furthermore, pursuant to California Labor Code § 202, Defendants are required to
15 pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her
16 employment, unless the employee provided 72 hours previous notice of his or her intention to quit,
17 in which case the employee is entitled to his or wages at the time of quitting.

18 45. California Labor Code § 203 provides that if an employer willfully fails to pay, in
19 accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who
20 quits, the employers is liable for waiting time penalties in the form of continued compensation to the
21 employee at the same rate for up to 30 workdays.

22 46. During the statute of limitations period, Defendants have willfully failed to pay
23 accrued wages and other compensation to Plaintiff and other aggrieved employees in accordance
24 with California Labor Code §§ 201 and 202. Defendants do not have a sufficient policy to provide
25 Plaintiff and other aggrieved employees with their final paychecks within the timeframes required
26 under California law. In addition, because Defendants have failed and continue to fail to properly
27 compensate Plaintiff and other aggrieved employees for all hours worked when due, overtime
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1 wages, and compensation for non-compliant meal and rest breaks, Defendants have also willfully
2 failed and continue to fail to pay accrued wages and other compensation to Plaintiff and other
3 aggrieved employees in accordance with California Labor Code §§ 201 and 202. Finally,
4 Defendants failed to pay Plaintiff and the other aggrieved employees the highest regular rate of pay
5 based upon incentives, bonuses, and commissions.

6 **Failure to Maintain Required Records**

7 **[Cal. Lab. Code §§ 226(a), 248.2, 1174(d); § 7 of the Applicable IWC Wage Order]**

8 47. During the statute of limitations period, as part of Defendants' illegal payroll policies
9 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,
10 Defendants knowingly and intentionally failed to maintain records as required under California
11 Labor Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Order, including but not limited to
12 the following records: total daily hours worked by each employee; applicable rates of pay; all
13 deductions; hours worked; meal periods; applicable rates of pay based upon nondiscretionary bonus
14 payments; time records showing when each employee begins and ends each work period; and
15 accurate itemized statements. Defendants have knowledge that they were not providing their non-
16 exempt employees with proper meal and rest periods, but knowingly failed to include in the wage
17 statements one (1) extra hour of compensation for each missed meal and rest period. Defendants
18 also illegally and inaccurately recorded the time in which Plaintiff and other aggrieved employees
19 worked, failed to maintain records regarding the regular rate of pay, and other violations of the
20 California Labor Code which have not been discovered.

21 **Failure to Furnish Accurate Itemized Wage Statements**

22 **[Cal. Lab. Code §§ 226(a); 248.2, § 7 of the Applicable IWC Wage Order]**

23 48. During the statute of limitations period, Defendants have routinely failed to provide
24 Plaintiff and other aggrieved employees with timely and accurate itemized wage statements.
25 Defendants' pay stubs violate Labor Code § 226 on their face by, among other things, not providing
26 Plaintiff and other aggrieved employees with proper meal periods and rest breaks but failing to include
27 in their wage statements one (1) additional hour of compensation at their regular rates of pay for each
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1 non-compliant meal period or rest break. Defendants also failed to include the correct legal name of
2 the employer of Plaintiff and the other aggrieved employees on their wage statements. Derivatively,
3 Defendants were and are not providing Plaintiff and other aggrieved employees with the regular rate
4 of pay based upon nondiscretionary bonus payments for premium payments for missed meal and rest
5 periods, sick pay and failed to accurately list the available amount of supplemental COVID-19 sick
6 leave and the amount taken on their wage statements, and other California Labor Code violations yet
7 to be discovered.

8 49. In order to conceal their wage theft, Defendants knowingly and intentionally failed to
9 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements
10 in accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

11 50. Plaintiff and other aggrieved employees suffered injury as a result of Defendants'
12 failure to provide timely and accurate itemized wage statements, which prevented them from
13 discovering the scope and extent of Defendants' violations of California wage and hour laws,
14 prevented them from being able to determine the gross wages earned, the total hours worked, all
15 deductions made, the net wages earned, all applicable hourly rates in effect during each pay period
16 and the corresponding number of hours worked at each hourly rate, the accurate regular rate of pay,
17 and other violations yet to be discovered.

18 **Failure to Indemnify Employees for Necessary Expenditures**

19 **[Cal. Lab. Code §2802 and All Applicable IWC Wage Orders]**

20 51. California Labor Code § 2802(a) requires an employer to indemnify an employee for
21 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge
22 of his or her duties, or of his or her obedience to the directions of the employer.

23 52. During the Statute of Limitations Period, Defendants failed to reimburse Plaintiff and
24 the other aggrieved employees for the usage of their personal cellular phones in addition to uniform
25 maintenance and other reimbursed expenses which were used for work related purposes.

FIRST CAUSE OF ACTION
VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT

[Cal. Lab. Code § 2698 *et seq.*]

(On Behalf of Plaintiff against Defendants)

53. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 52.

54. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other current and former non-exempt employees of Defendants pursuant to the procedures specified in Labor Code § 2699.3, because Plaintiff was employed by Defendants and one or more of the alleged California Labor Code violations was committed against Plaintiff during the statute of limitations period.

55. Plaintiff seeks to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

56. A plaintiff has standing to represent all aggrieved employees for all of his asserted violations of the California Labor Code under PAGA. See *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757 (“For PAGA standing a plaintiff need only have been employed by the violator and affected by ‘one or more’ of the alleged violations. (Sec. 2699, subs. (a), (c).)). Here, Plaintiff was not provided with a legally compliant wage statement pursuant to Labor Code §226 since Plaintiff was not provided with supplemental COVID-19 sick leave and COVID-19 supplemental sick leave was not listed on his wage statement, in addition to the meal and rest period and other California Labor Code violations as alleged herein.

57. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties from Defendants in a representative action for the violations set forth above, including but not limited to violations of California Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 558, 1174(d), 1194, 1197, and 1198.

58. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties

1 for Defendants' violations of California Labor Code provisions for which a civil penalty is
2 specifically provided, including but not limited to, the following:

- 3 a. Pursuant to California Labor Code § 210, for violations of California Labor
4 Code § 204, Defendants are subject to a civil penalty in the amount of one
5 hundred dollars (\$100) for the initial violation for each failure to pay each
6 employee, and two hundred dollars (\$200) per employee for violations in
7 subsequent pay periods.
- 8 b. Pursuant to California Labor Code § 1174.5, for violations of California Labor
9 Code § 1174(d), Defendants are subject to a civil penalty of five hundred
10 dollars (\$500).
- 11 c. Pursuant to California Labor Code § 1197.1, an employer who pays or causes
12 to be paid to any employee a wage less than the minimum fixed by an order of
13 the commission, shall be subject to a civil penalty as follows: for any initial
14 violation that is intentionally committed, one hundred dollars (\$100) for each
15 underpaid employee for each pay period for which the employee is underpaid;
16 and for each subsequent violation of the same offense, two hundred fifty
17 dollars (\$250) for each underpaid employee for each pay period for which the
18 employee is underpaid regardless of whether the initial violation was
19 intentionally committed.

20 59. California Labor Code § 2699(f) provides that for all California Labor Code
21 violations for which a civil penalty is not specifically provided, the following civil penalties are
22 established: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
23 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
24 subsequent violation.

25 60. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f)
26 for Defendants' violations of California Labor Code provisions for which a civil penalty is not
27 specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 226.7,
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1 1194, 1197, 1198, 2802 and all applicable IWC Wage Orders.

2 61. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
3 Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
6 for relief against Defendants, as follows:

7 1. For civil penalties according to proof;

8 2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g),
9 California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for
10 attorneys' fees and costs; and

11 3. For such further relief that the Court may deem just and proper.

12 DATED: June 20, 2024

LAW OFFICE OF SCOTT ERNEST WHEELER

13
14 By: 

15 SCOTT ERNEST WHEELER
16 JUSTIN A. WHEELER

17 *Attorneys for Plaintiff and the other Aggrieved*
18 *Employees*
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): SCOTT ERNEST WHEELER (SBN 187998) LAW OFFICE OF SCOTT ERNEST WHEELER 250 WEST FIRST STREET, SUITE 216 CLAREMONT, CALIFORNIA 91711 TELEPHONE NO.: (909) 621-4988 FAX NO.: (909) 621-4622 EMAIL ADDRESS: SEW@SCOTTWHEELERLAWOFFICE.COM ATTORNEY FOR (Name): WILLIAM PINEDA MAGANA		FOR COURT USE ONLY ELECTRONICALLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT 6/20/2024 3:01 PM By: Jocelin Acosta, DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 WEST 3RD STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN BERNARDINO, CALIFORNIA 92415 BRANCH NAME: SAN BERNARDINO - CIVIL DIVISION		CASE NUMBER: CIVSB2420733 JUDGE: DEPT.:	
CASE NAME: WILLIAM PINEDA MAGANA V. KTI, INCORPORATED, ET. AL.,			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$35,000) ☐ Limited (Amount demanded is \$35,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

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

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

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|---|
| a. ☒ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☒ Substantial amount of documentary evidence | d. ☒ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|---|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **ONE PAGA CAUSE OF ACTION**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **June 20, 2024**

Scott Ernest Wheeler

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

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

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

CASE TYPES AND EXAMPLES

Auto Tort

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

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

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

Non-PI/PD/WD (Other) Tort

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

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

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

Real Property

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

Unlawful Detainer

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

Judicial Review

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

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

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

Enforcement of Judgment

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

Miscellaneous Civil Complaint

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

Miscellaneous Civil Petition

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

WILLIAM PINEDA MAGANA

CASE NO.: CIVSB2420733

vs.

KTI, INCORPORATED, a California Corporation, TGP PRESSURE, INC., a California corporation, THOMPSON PIPE GROUP, INC., a California corporation; and DOES 1 through 50, inclusive,

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the SAN BERNARDINO - CIVIL DIVISION District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

☒ General

☐ Collection

Nature of Action

Ground

- | | |
|---|---|
| ☐ 1. Adoption | Petitioner resides within the district. |
| ☐ 2. Conservator | Petitioner or conservatee resides within the district. |
| ☐ 3. Contract | Performance in the district is expressly provided for. |
| ☐ 4. Equity | The cause of action arose within the district. |
| ☐ 5. Eminent Domain | The property is located within the district. |
| ☐ 6. Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 7. Guardianship | Petitioner or ward resides within the district or has property within the district. |
| ☐ 8. Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 9. Mandate | The defendant functions wholly within the district. |
| ☐ 10. Name Change | The petitioner resides within the district. |
| ☐ 11. Personal Injury | The injury occurred within the district. |
| ☐ 12. Personal Property | The property is located within the district. |
| ☐ 13. Probate | Decedent resided or resides within or had property within the district. |
| ☐ 14. Prohibition | The defendant functions wholly within the district. |
| ☐ 15. Review | The defendant functions wholly within the district. |
| ☐ 16. Title to Real Property | The property is located within the district. |
| ☐ 17. Transferred Action | The lower court is located within the district. |
| ☐ 18. Unlawful Detainer | The property is located within the district. |
| ☐ 19. Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| ☒ 20. Other Employment | The cause of action arose within the district. |
| ☐ 21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT. | |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

THOMPSON PIPE GROUP, INC.

3009 North Laurel Avenue

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

ADDRESS

Rialto

California

92377

CITY

STATE

ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed

on June 20, 2024

at Claremont

, California.



Signature of Attorney/Party