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6 Attorneys for Plaintiff JOSE RIOS, on behalf of himself,
7 all others similarly situated, and on behalf of the general public

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

11 JOSE RIOS on behalf of himself, all
12 others similarly situated, and on behalf of
the general public,

13 Plaintiffs,

14 v.

15 BURKE MASONRY SERVICES INC.;
16 and DOES 1-100,

17 Defendants.
18
19
20
21
22

Case No. CIVSB2416746

*[Assigned for all purposes to the
Honorable Kevin C. Lee; Dept. S26]*

**DECLARATION OF JILL VECCHI, ESQ.,
IN SUPPORT OF PLAINTIFF JOSE RIOS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF CLASS
NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE**

Complaint Filed: May 15, 2024
Trial Date: None Set

1 I, JILL VECCHI, declare as follows:

- 2 1. I am a partner at Mara Law Firm, PC, and counsel of record for Plaintiff in this matter. I am
3 duly admitted to practice before all the courts of the state of California. The following facts
4 are within my personal knowledge and, if called to testify, I could and would competently
5 testify thereto.
- 6 2. Based upon the Court's comments at the hearing on August 10, 2026, the Parties revised
7 the Notice of Class Action Settlement ("Class Notice"). A redlined version of the Class
8 Notice is attached hereto as **Exhibit 1**. A clean version is hereto as **Exhibit 2**.
- 9 3. Attached hereto as **Exhibit 3** is a copy of the Parties' proposed Request for Exclusion
10 Form.
- 11 4. Attached hereto as **Exhibit 4** is a copy of the Parties' proposed Formal Objection Form.
- 12 5. A redlined version showing the changes made to the Proposed Order Granting Plaintiff
13 Jose Rios' Motion for Preliminary Approval of Class Action Settlement, Conditional
14 Certification, Approval of Class Notice, Setting of Final Approval Hearing Date
15 ("Proposed Order") is attached hereto as **Exhibit 5**. A clean version is being filed herewith.
- 16 6. Plaintiff's Second Amended Complaint was uploaded to the Labor and Workforce
17 Development Agency ("LWDA") on August 10, 2026. The confirmation from this upload
18 is attached hereto as **Exhibit 6**.
- 19 7. Plaintiff's Private Attorneys General Act of 2004 ("PAGA") Notice is attached hereto as
20 **Exhibit 7**. Plaintiff's Amended PAGA Notice is attached hereto as **Exhibit 8**.
- 21 8. On August 10, 2026, the Parties met and conferred and Defendant's Counsel informed me
22 that she does not believe there are any other pending class/PAGA matters against
23 Defendant.
- 24 9. On August 10, 2026, I searched the LWDA's PAGA database, Court Link through Lexis,
25 and PACER for pending class or PAGA actions against Defendant that would overlap with
26 the allegations in this case. These searches did not reveal any pending class or PAGA
27 actions against Defendant.

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1 10. This declaration and accompanying documents were uploaded to the LWDA. Attached
2 hereto as **Exhibit 9** is a confirmation received as a result of this upload.

3 I declare under penalty of perjury under the laws of the State of California that all the
4 foregoing is true and correct.

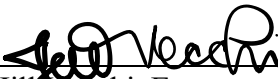
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6 Dated: August 17, 2026

MARA LAW FIRM, PC

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Jill Vecchi, Esq.

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Representing Plaintiff JOSE RIOS,
on behalf of himself, all others similarly situated,
and on behalf of the general public

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Exhibit 1

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN BERNARDINO
Jose Rios, on behalf of himself, all others similarly situated, and on behalf of the general public, Plaintiff, v.
Burke Masonry Services, Inc., Defendant
Case No. CIVSB2416746 (“Complaint” or “Action”)

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don’t act.*

TO: All individuals who worked for Burke Masonry Services, Inc. (“Defendant” or “Burke”) as hourly non-exempt employees in California at any time between May 15, 2020, and September 8, 2025.

The California Superior Court, County of San Bernardino has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned action (“Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All individuals who worked for Burke Masonry Services, Inc. as hourly non-exempt employees in California at any time between May 15, 2020, and September 8, 2025 and have not already released the claims covered under this Settlement.

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

The proposed Settlement has two main parts: (1) a class settlement requiring Defendant to fund Individual Class Settlement Shares, and (2) a PAGA settlement requiring Defendant to fund Individual PAGA Settlement Shares and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Settlement Share is estimated to be \$INSERT (less tax withholdings) and your Individual PAGA Settlement Share is estimated to be \$INSERT.** The actual amount you may receive likely will be different and will depend on a number of factors. If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work any pay periods during the PAGA Period.

The above estimates are based on Defendant’s records showing that **you worked INSERT workweeks** during the Class Period (the Class Period is May 15, 2020, through September 8, 2025) and **you worked INSERT pay periods** during the PAGA Period (the PAGA Period is April 19, 2023, through September 8, 2025). If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 10 of this Notice.

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Questions? Call the Settlement Administrator toll free at [phone number]

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1. Why Have I Received This Notice?

Burke's records indicate that you may be a Class Member. The settlement will resolve all Class Members' Released Claims, as described in Section No. 9 below, from May 15, 2020, through September 8, 2025 (this time period is referred to as the "Class Period"). If you worked for Burke at some time during the Class Period, you may be entitled to money under this settlement. This notice provides you with basic information about the case and advises you of your options with regard to the settlement.

A Preliminary Approval Hearing was held on **August 10, 2026**, in the California Superior Court, County of San Bernardino. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

2. What Is This Case About?

A class action complaint was filed by Jose Rios on May 15, 2024, in San Bernardino County Superior Court (Case No. CIVSB2416746) alleging that Defendant failed to pay all straight time and overtime wages, failed to provide lawful meal, rest, and recovery periods, failed to adopt a complaint sick pay/paid time off policy, failed to provide accurate itemized wage statements, failed to pay all wages due at the termination of employment, failed to reimburse for all business expenses, and violated the Unfair Competition Law.

Plaintiff provided notice to the Labor and Workforce Development Agency ("LWDA") in accordance with the Private Attorneys General Act of 2004 ("PAGA") on April 19, 2024. On October 18, 2024, the Parties stipulated to allow Plaintiff to file a First Amended Complaint that added a cause of action for Defendant's alleged violation of the PAGA. On November 4, 2024, the Court granted this stipulation. Plaintiff filed his First Amended Complaint on November 5, 2024.

On April 17, 2026, the Parties stipulated to allow Plaintiff to file a Second Amended Complaint to add certain sections of the *California Labor Code* to the claims covered by the Settlement, which address wages, working conditions, and meal and rest periods. On May 5, 2026, the Court granted this stipulation, and Plaintiff filed his Second Amended Complaint on June 3, 2026.

The Court has not made any determination as to whether the claims advanced by the Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of

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Questions? Call the Settlement Administrator toll free at [phone number]

Plaintiff or Defendant; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further deny any liability whatsoever to Plaintiff or to the Class.

3. Am I A Class Member? Am I An Aggrieved Employee?

You are a Class Member if you worked for Burke as hourly non-exempt employees in California at any time between May 15, 2020, and September 8, 2025 and have not already released the claims covered under this Settlement.

If you are a Class Member and worked at least one pay period for Defendant at any time between April 19, 2023, and September 8, 2025, you are also an “Aggrieved Employee” under the settlement.

4. How Does This Class Action Settlement Work?

Plaintiff Jose Rios brings this action behalf of himself and all other similarly situated individuals who worked for Defendant as non-exempt employees in California at any time during the Class Period. Plaintiff and these other individuals comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. On [date of ruling on preliminary approval], the Court directed that you receive this notice.

The Court will hold a Final Approval Hearing concerning the proposed settlement on [February 1, 2027](#), at [8:30 a.m.](#), in Department S26 before Judge Kevin C. Lee, located at 247 W. 3rd Street, San Bernardino, CA 92415. The date of the Final Approval Hearing may change without further notice to the Class. You are advised to check the Court’s website (instructions on accessing this site are provided in Section 12 of this Notice) to confirm that the date has not been changed.

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5. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiff and the Class (“Class Counsel”)	Attorneys for Burke
MARA LAW FIRM, PC David Mara dmara@maralawfirm.com Jill Vecchi jvecchi@maralawfirm.com 3160 Camino Del Rio South, Suite 207 San Diego, California 92108 Telephone: (619) 234-2833	O’HAGAN MEYER Katherine Den Bleyker Alyson M. Dudkowski Meghan E. McNally 550 S. Hope Street, Suite 2400 Los Angeles, California 90071

The Court has decided that Mara Law Firm, PC, is qualified to represent you and all other Class Members simultaneously.

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Questions? Call the Settlement Administrator toll free at [phone number]

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. What Are My Options?

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.
- **OBJECT:** You may assert a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

7. How Do I Opt Out Or Exclude Myself From This Settlement?

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. To do this, you can use the enclosed Request for Exclusion Form. You must fully complete the enclosed Request for Exclusion Form. Alternatively, you can send a written request for exclusion that includes all of the following: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; and (d) be signed by you or your lawful representative. Your Request for Exclusion Form or other written Request for Exclusion must be postmarked no later than [the Response Deadline].

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If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Final Judgment. If you do not request exclusion from the Settlement, the Final Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

8. How Do I Object To The Settlement?

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement

Administrator postmarked no later than [the Response Deadline]. To do this, you can use the enclosed Formal Objection Form. You must fully complete the enclosed Formal Objection Form. Alternatively, you can send an objection that includes all of the following: (a) your full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval Hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel. If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

9. How Does This Settlement Affect My Rights? What are the Released Claims?

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court’s Final Judgment and will release Defendant and the Released Parties¹ from the Released Class Claims. The Released Class Claims include any and all claims Participating Class Members have or may have against the Released Parties that were asserted in the Second Amended Complaint or that could have arisen out of the allegations made in the Second Amended Complaint. The claims in the Second Amended Complaint are: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods; (6) failure to adopt a compliant sick pay/paid time off policy; (7) knowing and intentional failure to comply with itemized employee wage statement provisions; (8) failure to pay all wages due at the time of termination of employment; (9) failure to reimburse/illegal deductions; and (10) violation of the Unfair Competition Law. This release shall be for the Class Period.

Additionally, the LWDA will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims. The Released PAGA Claims include: The Released PAGA Claims include any and all claims Aggrieved Employees have or may have against the Released Parties that were asserted in the Second Amended Complaint and PAGA Notice or that could have arisen out of the allegations made in the Second Amended Complaint and PAGA Notice. The PAGA claims in the Second Amended Complaint and PAGA Notice are: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods; (6) failure to adopt a compliant sick pay/paid time off policy; (7) knowing and intentional failure to comply with itemized employee wage statement provisions; (8) failure to pay all wages due at the time of termination of employment; (9) failure to reimburse/illegal deductions; and (10) failure to pay employees twice per month. This release shall be for the PAGA Period.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than \$300,000 (“Gross Settlement Amount” or “GSA”).

A. Deductions from the Settlement

¹ “Released Parties” mean Defendant, and each of its former, present and future owners, parents, and subsidiaries, and all of their current, former and future spouse(s), children, officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

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The “Net Settlement Amount” or “NSA” means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhancement Payment to the named Plaintiff in an amount up to \$10,000, for prosecution of the Action, risks undertaken for the payment of attorneys’ fees and costs, and a broader release of claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed \$10,000; (3) a payment of \$25,000 allocated to the PAGA claims; (4) Employer Taxes; and (5) payment to Class Counsel in an amount not to exceed \$100,000 (one-third of the Gross Settlement Amount) for attorneys’ fees and an amount not to exceed \$40,000 for litigation costs. All of these payments are subject to court approval.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. Therefore, the value of each Class Member’s Individual Settlement Share ties directly to the amount of weeks that he or she worked during the Class Period (May 15, 2020, through September 8, 2025).

C. How Aggrieved Employee Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$18,750 (75% of the \$25,000 total PAGA Payment). The remaining \$6,250 is the “Net PAGA Settlement Amount” and will be proportionately distributed amongst all Aggrieved Employees. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of workweeks he or she worked for Defendant, based on the PAGA Data provided by Defendant, divided by (ii) the total number of workweeks worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. Therefore, the value of each Aggrieved Employee’s Individual PAGA Settlement Share ties directly to the amount of workweeks that he or she worked during the PAGA Period (April 19, 2023, through September 8, 2025).

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the period of May 15, 2020, through September 8, 2025.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] pay periods during the period of April 19, 2023, through September 8, 2025.

If you believe the number of workweeks attributed to you is incorrect, you must call the Settlement Administrator at [PHONE NUMBER] no later than [RESPONSE DEADLINE] or mail documentation to the Settlement Administrator at [ADDRESS] that is postmarked no later than [RESPONSE DEADLINE]. You should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator. The documentation should provide evidence of the dates you contend you worked for Burke during the Class or PAGA Period.

E. Tax Treatment of Your Settlement Payments

A third (33.33%) of each Individual Class Settlement Share is intended to settle each Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions. Defendant's share of legally required payroll taxes for the Wage Portion will be calculated by the Settlement Administrator and paid by Defendants separately from the GSA. The Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member with respect to the Wage Portion of his/her Individual Class Settlement Share.

Two-thirds (66.66%) of the Individual Class Settlement Share is intended to settle each Class Member's claims for interest and penalties/other payments. The Non-Wage Portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Participating Class Member an IRS Form 1099 with respect to the Non-Wage Portion of his/her Individual Class Settlement Share.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

F. What Happens If You Don't Cash Your Check?

Please note that you must cash or deposit your settlement check within 180 calendar days after the check is mailed to you. If your check was lost or misplaced or you have changed your address, please contact the Settlement Administrator at [PHONE NUMBER]. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those checks remaining un-cashed, shall escheat to the State of California Controller's Office under the Unclaimed Property Statutes in the name of the Class Member.

11. *How Will the Attorneys for the Class and the Class Representatives Be Paid?*

The attorneys for Plaintiff and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed one-third of the Gross Settlement Amount (\$100,000) for attorney fees and \$40,000 for litigation costs.

Defendant has paid all of their own attorneys' fees and costs.

Plaintiff will also be paid, subject to Court approval, an amount not to exceed \$10,000, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a broader release of claims.

12. *What do I do if I Need More Information or Have Questions?*

This notice summarizes the proposed settlement. You can receive a copy of the settlement agreement by contacting Class Counsel at (619) 234-2833, or by accessing the Court docket in this case through the Court's website at <https://www.sb-court.org>, or by visiting the office of the Court at 247 W. 3rd Street, San Bernardino, CA 92415 between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. You may also ask Class Counsel for a copy of any of the case documents to be mailed to you free of charge. Please refer to the *Rios v. Burke Masonry Service, Inc.* Class Action Settlement when calling the Settlement Administrator or Class Counsel.

To view the case documents on the Court's website, access the website <https://sanbernardino.courts.ca.gov/>. Once at this website, click on the "Online Services" link. Then click the link that says "Case Information & Documents." Then click on the link for "Case Information & Documents." At the bottom of the page, click on the link "Accept (Court Access Portal)." Then, click on the heading "Search" and select "Case Information" under that heading. On the next page, type the case number "CIVSB2416746" into the box with the words Case Number." Then, click the "Search" button. This will take you to the case information. If you select the heading "Documents" on this page you will be able to access all of the documents filed in the case.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to Class Counsel or the Settlement Administrator.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

Exhibit 2

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN BERNARDINO

*Jose Rios, on behalf of himself, all others similarly situated, and on behalf of the general public, Plaintiff, v.
Burke Masonry Services, Inc., Defendant*
Case No. CIVSB2416746 (“Complaint” or “Action”)

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don’t act.*

TO: All individuals who worked for Burke Masonry Services, Inc. (“Defendant” or “Burke”) as hourly non-exempt employees in California at any time between May 15, 2020, and September 8, 2025.

The California Superior Court, County of San Bernardino has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned action (“Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All individuals who worked for Burke Masonry Services, Inc. as hourly non-exempt employees in California at any time between May 15, 2020, and September 8, 2025 and have not already released the claims covered under this Settlement.

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

The proposed Settlement has two main parts: (1) a class settlement requiring Defendant to fund Individual Class Settlement Shares, and (2) a PAGA settlement requiring Defendant to fund Individual PAGA Settlement Shares and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Settlement Share is estimated to be \$INSERT (less tax withholdings) and your Individual PAGA Settlement Share is estimated to be \$INSERT**. The actual amount you may receive likely will be different and will depend on a number of factors. If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work any pay periods during the PAGA Period.

The above estimates are based on Defendant’s records showing that **you worked INSERT workweeks** during the Class Period (the Class Period is May 15, 2020, through September 8, 2025) and **you worked INSERT pay periods** during the PAGA Period (the PAGA Period is April 19, 2023, through September 8, 2025). If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 10 of this Notice.

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1. *Why Have I Received This Notice?*

Burke's records indicate that you may be a Class Member. The settlement will resolve all Class Members' Released Claims, as described in Section No. 9 below, from May 15, 2020, through September 8, 2025 (this time period is referred to as the "Class Period"). If you worked for Burke at some time during the Class Period, you may be entitled to money under this settlement. This notice provides you with basic information about the case and advises you of your options with regard to the settlement.

A Preliminary Approval Hearing was held on **August 10, 2026**, in the California Superior Court, County of San Bernardino. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

2. *What Is This Case About?*

A class action complaint was filed by Jose Rios on May 15, 2024, in San Bernardino County Superior Court (Case No. CIVSB2416746) alleging that Defendant failed to pay all straight time and overtime wages, failed to provide lawful meal, rest, and recovery periods, failed to adopt a complaint sick pay/paid time off policy, failed to provide accurate itemized wage statements, failed to pay all wages due at the termination of employment, failed to reimburse for all business expenses, and violated the Unfair Competition Law.

Plaintiff provided notice to the Labor and Workforce Development Agency ("LWDA") in accordance with the Private Attorneys General Act of 2004 ("PAGA") on April 19, 2024. On October 18, 2024, the Parties stipulated to allow Plaintiff to file a First Amended Complaint that added a cause of action for Defendant's alleged violation of the PAGA. On November 4, 2024, the Court granted this stipulation. Plaintiff filed his First Amended Complaint on November 5, 2024.

On April 17, 2026, the Parties stipulated to allow Plaintiff to file a Second Amended Complaint to add certain sections of the *California Labor Code* to the claims covered by the Settlement, which address wages, working conditions, and meal and rest periods. On May 5, 2026, the Court granted this stipulation, and Plaintiff filed his Second Amended Complaint on June 3, 2026.

The Court has not made any determination as to whether the claims advanced by the Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of

Plaintiff or Defendant; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further deny any liability whatsoever to Plaintiff or to the Class.

3. *Am I A Class Member? Am I An Aggrieved Employee?*

You are a Class Member if you worked for Burke as hourly non-exempt employees in California at any time between May 15, 2020, and September 8, 2025 and have not already released the claims covered under this Settlement.

If you are a Class Member and worked at least one pay period for Defendant at any time between April 19, 2023, and September 8, 2025, you are also an “Aggrieved Employee” under the settlement.

4. *How Does This Class Action Settlement Work?*

Plaintiff Jose Rios brings this action behalf of himself and all other similarly situated individuals who worked for Defendant as non-exempt employees in California at any time during the Class Period. Plaintiff and these other individuals comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. On **[date of ruling on preliminary approval]**, the Court directed that you receive this notice.

The Court will hold a Final Approval Hearing concerning the proposed settlement on **February 1, 2027**, at **8:30 a.m.**, in Department S26 before Judge Kevin C. Lee, located at 247 W. 3rd Street, San Bernardino, CA 92415. The date of the Final Approval Hearing may change without further notice to the Class. You are advised to check the Court’s website (instructions on accessing this site are provided in Section 12 of this Notice) to confirm that the date has not been changed.

5. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiff and the Class (“Class Counsel”)	Attorneys for Burke
MARA LAW FIRM, PC David Mara dmara@maralawfirm.com Jill Vecchi jvecchi@maralawfirm.com 3160 Camino Del Rio South, Suite 207 San Diego, California 92108 Telephone: (619) 234-2833	O’HAGAN MEYER Katherine Den Bleyker Alyson M. Dudkowski Meghan E. McNally 550 S. Hope Street, Suite 2400 Los Angeles, California 90071

The Court has decided that Mara Law Firm, PC, is qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. What Are My Options?

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.
- **OBJECT:** You may assert a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

7. How Do I Opt Out Or Exclude Myself From This Settlement?

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. To do this, you can use the enclosed Request for Exclusion Form. You must fully complete the enclosed Request for Exclusion Form. Alternatively, you can send a written request for exclusion that includes all of the following: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; and (d) be signed by you or your lawful representative. Your Request for Exclusion Form or other written Request for Exclusion must be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Final Judgment. If you do not request exclusion from the Settlement, the Final Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

8. How Do I Object To The Settlement?

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement

Administrator postmarked no later than [the Response Deadline]. To do this, you can use the enclosed Formal Objection Form. You must fully complete the enclosed Formal Objection Form. Alternatively, you can send an objection that includes all of the following: (a) your full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval Hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel. If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

9. *How Does This Settlement Affect My Rights? What are the Released Claims?*

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court’s Final Judgment and will release Defendant and the Released Parties¹ from the Released Class Claims: The Released Class Claims include any and all claims Participating Class Members have or may have against the Released Parties that were asserted in the Second Amended Complaint or that could have arisen out of the allegations made in the Second Amended Complaint. The claims in the Second Amended Complaint are: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods; (6) failure to adopt a compliant sick pay/paid time off policy; (7) knowing and intentional failure to comply with itemized employee wage statement provisions; (8) failure to pay all wages due at the time of termination of employment; (9) failure to reimburse/illegal deductions; and (10) violation of the Unfair Competition Law. This release shall be for the Class Period.

Additionally, the LWDA will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims. The Released PAGA Claims include: The Released PAGA Claims include any and all claims Aggrieved Employees have or may have against the Released Parties that were asserted in the Second Amended Complaint and PAGA Notice or that could have arisen out of the allegations made in the Second Amended Complaint and PAGA Notice. The PAGA claims in the Second Amended Complaint and PAGA Notice are: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods; (6) failure to adopt a compliant sick pay/paid time off policy; (7) knowing and intentional failure to comply with itemized employee wage statement provisions; (8) failure to pay all wages due at the time of termination of employment; (9) failure to reimburse/illegal deductions; and (10) failure to pay employees twice per month. This release shall be for the PAGA Period.

10. *How Much Can I Expect to Receive From This Settlement?*

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than \$300,000 (“Gross Settlement Amount” or “GSA”).

A. Deductions from the Settlement

¹ “Released Parties” mean Defendant, and each of its former, present and future owners, parents, and subsidiaries, and all of their current, former and future spouse(s), children, officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

The “Net Settlement Amount” or “NSA” means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhancement Payment to the named Plaintiff in an amount up to \$10,000, for prosecution of the Action, risks undertaken for the payment of attorneys’ fees and costs, and a broader release of claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed \$10,000; (3) a payment of \$25,000 allocated to the PAGA claims; (4) Employer Taxes; and (5) payment to Class Counsel in an amount not to exceed \$100,000 (one-third of the Gross Settlement Amount) for attorneys’ fees and an amount not to exceed \$40,000 for litigation costs. All of these payments are subject to court approval.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. Therefore, the value of each Class Member’s Individual Settlement Share ties directly to the amount of weeks that he or she worked during the Class Period (May 15, 2020, through September 8, 2025).

C. How Aggrieved Employee Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$18,750 (75% of the \$25,000 total PAGA Payment). The remaining \$6,250 is the “Net PAGA Settlement Amount” and will be proportionately distributed amongst all Aggrieved Employees. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of workweeks he or she worked for Defendant, based on the PAGA Data provided by Defendant, divided by (ii) the total number of workweeks worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. Therefore, the value of each Aggrieved Employee’s Individual PAGA Settlement Share ties directly to the amount of workweeks that he or she worked during the PAGA Period (April 19, 2023, through September 8, 2025).

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the period of May 15, 2020, through September 8, 2025.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] pay periods during the period of April 19, 2023, through September 8, 2025.

If you believe the number of workweeks attributed to you is incorrect, you must call the Settlement Administrator at [PHONE NUMBER] no later than [RESPONSE DEADLINE] or mail documentation to the to the Settlement Administrator at [ADDRESS] that is postmarked no later than [RESPONSE DEADLINE]. You should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator. The documentation should provide evidence of the dates you contend you worked for Burke during the Class or PAGA Period.

E. Tax Treatment of Your Settlement Payments

A third (33.33%) of each Individual Class Settlement Share is intended to settle each Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions. Defendant's share of legally required payroll taxes for the Wage Portion will be calculated by the Settlement Administrator and paid by Defendants separately from the GSA. The Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member with respect to the Wage Portion of his/her Individual Class Settlement Share.

Two-thirds (66.66%) of the Individual Class Settlement Share is intended to settle each Class Member's claims for interest and penalties/other payments. The Non-Wage Portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Participating Class Member an IRS Form 1099 with respect to the Non-Wage Portion of his/her Individual Class Settlement Share.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

F. What Happens If You Don't Cash Your Check?

Please note that you must cash or deposit your settlement check within 180 calendar days after the check is mailed to you. If your check was lost or misplaced or you have changed your address, please contact the Settlement Administrator at [PHONE NUMBER]. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those checks remaining un-cashed, shall escheat to the State of California Controller's Office under the Unclaimed Property Statutes in the name of the Class Member.

11. How Will the Attorneys for the Class and the Class Representatives Be Paid?

The attorneys for Plaintiff and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed one-third of the Gross Settlement Amount (\$100,000) for attorney fees and \$40,000 for litigation costs.

Defendant has paid all of their own attorneys' fees and costs.

Plaintiff will also be paid, subject to Court approval, an amount not to exceed \$10,000, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a broader release of claims.

12. What do I do if I Need More Information or Have Questions?

This notice summarizes the proposed settlement. You can receive a copy of the settlement agreement by contacting Class Counsel at (619) 234-2833, or by accessing the Court docket in this case through the Court's website at <https://www.sb-court.org>, or by visiting the office of the Court at 247 W. 3rd Street, San Bernardino, CA 92415 between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. You may also ask Class Counsel for a copy of any of the case documents to be mailed to you free of charge. Please refer to the *Rios v. Burke Masonry Service, Inc.* Class Action Settlement when calling the Settlement Administrator or Class Counsel.

To view the case documents on the Court's website, access the website <https://sanbernardino.courts.ca.gov/>. Once at this website, click on the "Online Services" link. Then click the link that says "Case Information & Documents." Then click on the link for "Case Information & Documents." At the bottom of the page, click on the link "Accept (Court Access Portal)." Then, click on the heading "Search" and select "Case Information" under that heading. On the next page, type the case number "CIVSB2416746" into the box with the words Case Number." Then, click the "Search" button. This will take you to the case information. If you select the heading "Documents" on this page you will be able to access all of the documents filed in the case.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to Class Counsel or the Settlement Administrator.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

Exhibit 3

REQUEST FOR EXCLUSION FORM

*Jose Rios, on behalf of himself, all others similarly situated, and on behalf of the general public,
Plaintiff, v. Burke Masonry Services, Inc., Defendant*

Case No. CIVSB2416746
San Bernardino County Superior Court

IF YOU DO **NOT** WANT TO PARTICIPATE IN THE SETTLEMENT AND DO **NOT** WANT TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT, YOU CAN SIGN AND FILL OUT THIS FORM ACCURATELY AND IN ITS ENTIRETY, AND MAIL THIS FORM BY FIRST CLASS U.S. MAIL TO THE ADDRESS BELOW SO THAT IT IS POSTMARKED ON OR BEFORE [**RESPONSE DEADLINE**].

**INSERT ADMIN NAME
SETTLEMENT ADMIN ADDRESS**

I confirm that I have received notice of the proposed settlement in this action. I have decided to be excluded from the settlement, and I have decided **not** to participate in the proposed settlement. Please note that you cannot request to be excluded from the PAGA portion of the settlement. As such, if you request to be excluded from the settlement and are a PAGA Aggrieved Employee, you will still receive your portion of the PAGA Fund.

(Date)

(Signature)

(Address)

(Type or Print Name)

(City, State, Zip)

(Social Security Number or Employee
Identification Number)

(Telephone Number)

Exhibit 4

FORMAL OBJECTION FORM

*Jose Rios, on behalf of himself, all others similarly situated, and on behalf of the general public,
Plaintiff, v. Burke Masonry Services, Inc., Defendant*

Case No. CIVSB2416746

San Bernardino County Superior Court

IF YOU WANT TO OBJECT TO THE SETTLEMENT, YOU CAN SIGN AND FILL OUT THIS FORM ACCURATELY AND IN ITS ENTIRETY, AND MAIL THIS FORM BY FIRST CLASS U.S. MAIL TO THE ADDRESS BELOW SO THAT IT IS POSTMARKED ON OR BEFORE **[RESPONSE DEADLINE]**.

**INSERT ADMIN NAME
SETTLEMENT ADMIN ADDRESS, EMAIL
ADDRESS, AND FAX NUMBER**

I WANT TO OBJECT TO THE SETTLEMENT.

I confirm that I performed work for Burke Masonry Services, Inc. in California as hourly non-exempt employee in California at some time between May 15, 2020, and September 8, 2025. I confirm that I have received notice of the proposed settlement in this action.

Please provide the basis for your objection (you may also provide this on a separate document enclosed and returned with this form):

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

You may provide copies of documents or other exhibits you intend on relying on in support of your objection when you return this form if you would like.

You may appear at the final approval hearing, if you so choose, to discuss your objection with the Court. Please note that if the Court rejects your objection, you will receive an individual settlement payment and will be bound by the terms of the settlement.

(Date)

(Signature)

(Address)

(Type or Print Name)

(City, State, Zip)

(Social Security Number or Employee
Identification Number)

(Telephone Number)

Exhibit 5

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO

JOSE RIOS on behalf of himself, all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

v.

BURKE MASONRY SERVICES INC.;
and DOES 1-100,

Defendants.

Case No. CIVSB2416746

*[Assigned for all purposes to the
Honorable Kevin C. Lee; Dept. S26]*

**REVISED [PROPOSED] ORDER
GRANTING PLAINTIFF JOSE RIOS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF CLASS
NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE**

Date: August 10, 2026
Time: 8:30 a.m.

Complaint Filed: May 15, 2024
Trial Date: None Set

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1 **I. RECITALS**

2 This action is currently pending before this Court as a putative class action (the “Action”).
3 Plaintiff Jose Rios has applied to this Court for an order preliminarily approving the settlement of
4 the Action in accordance with the Joint Stipulation and Settlement Agreement (the “Agreement”),
5 which together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed
6 settlement and entry of judgment upon the terms and conditions set forth therein. The Court has
7 read and considered the Memorandum of Points and Authorities in support of Plaintiff’s Motion
8 for Preliminary Approval of Class Action Settlement, Conditional Certification, Approval of Class
9 Notice, Setting of Final Approval Hearing Date and the declarations submitted therewith. For
10 purposes of this Order, the Court adopts all defined terms as set forth in the Agreement.

11 **II. FINDINGS**

12 After review and consideration of the Agreement and Plaintiff’s motion for preliminary
13 approval and the papers in support thereof, the Court hereby finds and orders as follows:

14 1. The Agreement falls within the range of reasonableness meriting possible final
15 approval.

16 2. The certification of the Class solely for purposes of settlement is appropriate in that:
17 (1) the Class Members are ascertainable and so numerous that joinder of all Class Members is
18 impracticable; (2) there are questions of law and fact common to the Class which predominate
19 over any individual questions; (3) Plaintiff’s claims are typical of the claims of the Class; (4)
20 Plaintiff and his Counsel have fairly and adequately represented and protected the interests of the
21 Class; and (5) a class action, and class-wide resolution of the action via class settlement procedures
22 is superior to other available methods for the fair and efficient adjudication of the controversy.

23 3. The Agreement, and the obligations of the Parties as set forth therein, is fair,
24 reasonable, and is an adequate settlement of this case and is in the best interests of the Class in
25 light of the factual, legal, practical, and procedural considerations raised by this case.

26 4. Plaintiff does not have any conflicts that would preclude him from serving as Class
27 Representative, and his appointment comports with the requirements of due process.

28 5. Class Counsel does not have any conflicts that would preclude them from acting as

1 Class Counsel, and they meet the requirements for appointment as Class Counsel and the
2 requirements of due process.

3 6. The Notice of Class Action Settlement (“Class Notice”) attached as **Exhibit A** to
4 the Agreement complies with due process because the Class Notice is reasonably calculated to
5 adequately apprise Class Members of: (a) the pending lawsuit; (b) the terms of the proposed
6 Agreement; and (c) their rights, including the right to either participate in the settlement, exclude
7 themselves from the settlement, or object to the settlement. Plaintiff’s proposed plan for notifying
8 the Class Members and settlement administration is the best notice practicable under the
9 circumstances.

10 **III. ORDER**

11 The Court having considered the papers submitted in support of the motion for preliminary
12 approval, HEREBY ORDERS THE FOLLOWING:

13 1. The Court finds on a preliminary basis that the provisions of the Agreement are
14 fair, just, reasonable, and adequate and, therefore, meet the requirements for preliminary approval.

15 2. The following Class is conditionally certified for purposes of settlement only: All
16 individuals who worked for Burke Masonry Services, Inc. as hourly non-exempt employees in
17 California at any time between May 15, 2020, and September 8, 2025 and have not already released
18 the claims covered under this Settlement.

19 3. The Agreement provides for the following release as to Participating Class
20 Members,¹ which is hereby approved conditionally: The Released Class Claims include any and
21 all claims Participating Class Members have or may have against the Released Parties that were
22 asserted in the Second Amended Complaint or that could have arisen out of the allegations made in
23 the Second Amended Complaint. This release shall be for the Class Period.

24 4. This settlement also releases claims under the Private Attorneys General Act of
25 2004 (“PAGA”). These claims are asserted on behalf of Aggrieved Employees defined as: All
26 Class Members who worked at least one pay period for Defendant between April 19, 2023, and
27

28 ¹ Participating Class Members are all Class Members who do not submit a valid and timely Opt-
Out or Request for Exclusion.

1 September 8, 2025.

2 5. The Agreement provides for the following release as to PAGA Aggrieved
3 Employees, which is hereby approved conditionally: The Released PAGA Claims include any and
4 all claims Aggrieved Employees have or may have against the Released Parties that were asserted
5 in the Second Amended Complaint and PAGA Notice or that could have arisen out of the allegations
6 made in the Second Amended Complaint and PAGA Notice. This release shall be for the PAGA
7 Period.

8 6. The settlement appears to be fair, adequate, and reasonable to the Class. The
9 settlement falls within the range of reasonableness and appears to be presumptively valid, subject
10 only to any objections that may be raised at the final approval hearing and final approval by this
11 Court.

12 7. Plaintiff Jose Rios is conditionally approved as the Class Representative for the
13 Class.

14 8. ~~The Court acknowledges the request for a Class Representative Enhancement~~
15 ~~Payment of \$10,000 to Plaintiff Jose Rios for his service as class representative which will be~~
16 ~~decided at the time of Final Approval.~~

Deleted: The proposed Class Representative Enhancement Payment to Plaintiff Jose Rios in the amount of \$ 10,000, is preliminarily approved.

17 9. Mara Law Firm, PC, is conditionally approved as Class Counsel for the Class.

18 10. The proposed awards of up to \$100,000 in attorneys' fees and up to \$40,000 in
19 actual costs payable to Class Counsel are preliminarily approved.

20 11. A final approval hearing on the question of whether the settlement, attorneys' fees
21 and costs to Class Counsel, and the Class Representative Enhancement Payment should be finally
22 approved as fair, reasonable and adequate as to Class Members is scheduled in Department S26
23 on the date and time set forth in the Implementation Schedule below.

24 12. The Court confirms ILYM Group, Inc. as the Settlement Administrator.

25 13. The proposed payment of up to \$10,000 to ILYM Group, Inc. for its services as the
26 Settlement Administrator is preliminarily approved.

27 14. The Agreement provides from the Gross Settlement Amount a PAGA Payment of
28 \$25,000 (75% of which shall be paid to the Labor and Workforce Development Agency, and 25%

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of which shall be distributable to Aggrieved Employees).

15. The Court approves, as to form and content, the Class Notice in substantially the form attached as **Exhibit A** hereto. The Court approves the procedure for Class Members to participate in, to opt out of, and to object to, the settlement as set forth in the notice.

16. The Court directs the mailing of the notice of class action settlement by first class mail to Class Members with known addresses in accordance with the Implementation Schedule below. The Court directs publication of the notice of class action settlement to Class Members with unknown addresses through a settlement website administered by the Settlement Administrator in accordance with the Implementation Schedule below. The Court finds the dates selected for the mailing, distribution, and publication of the notice, as set forth in the Implementation Schedule, meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

17. Pursuant to California Code of Civil Procedure section 664.6 and Rule 3.769(h) of the California Rules of Court, the Court retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Order and the Settlement.

IV. IMPLEMENTATION SCHEDULE

The Court orders the following Implementation Schedule for further proceedings:

Deadline for Defendant to submit Class Data to Settlement Administrator:	14 calendar days after entry of this Order.
Deadline for Settlement Administrator to Mail Class Notices to Class Members with Known Addresses	14 calendar days after receipt of the Class Data.
Deadline for Class Members to Postmark Requests for Exclusion, Objections, or Disputes ("Response Deadline")	30 calendar days after initial mailing of Notice to Class Members.
Deadline for Class Counsel to file a Motion for Final Approval	16 court days before Final Approval Hearing.

Deleted: to the Agreement

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Deadline to Provide the Court with the Settlement Administrator's Declaration Outlining Requests for Exclusion, Objections, and Disputes	16 court days before Final Approval Hearing
Final Approval Hearing and Final Approval	February 1, 2027, at 8:30 a.m.

IT IS SO ORDERED.

Dated: _____, 2026

By _____
Honorable Kevin C. Lee
San Bernardino County Superior Court Judge

Deleted: October 28, 2026

Deleted:]

Deleted: November 20, 2026

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Exhibit 6

Thank you for your Court Complaint Submission.

From DIR PAGA Unit <no-reply@formassembly.com>

Date Mon 8/10/2026 11:34 AM

To Matt Adame <adame@maralawfirm.com>

08/10/2026 11:34:14 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private Attorneys General Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

Exhibit 7



April 19, 2024

Via Upload to the LWDA Website and U.S. Certified Mail

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

TO: California Labor and Workforce Development Agency; Burke Masonry Services Inc.

*Jose Rios, on behalf of himself, others similarly situated, and the general public v. Burke
Masonry Services Inc.*

Factual Statement and Theories of Labor Code Violations

Jose Rios was formerly employed by Burke Masonry Services Inc. ("BURKE") as a non-exempt hourly employee in California. Mr. Rios worked as a general laborer employee. Mr. Rios's employment with BURKE ended on or about April 5, 2023.

Mr. Rios gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for BURKE's failure to comply with California's wage and hour requirements on behalf of himself and similarly aggrieved employees.

BURKE is a complete masonry firm specializing in commercial and residential projects. BURKE employs hourly non-exempt employees, such as Mr. Rios, to perform these services in California.

I. BURKE Fails to Pay All Straight Time Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is

expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

BURKE has a continuous policy of not paying Mr. Rios and the aggrieved employees for all hours worked. Specifically, BURKE has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. Thus, Mr. Rios and the aggrieved employees are owed wages for the unpaid time during which they are subject to BURKE's control and/or during which they are not free from all work duties.

Further, BURKE requires Mr. Rios and the aggrieved employees to use their personal vehicles for work related purposes. Mr. Rios and the aggrieved employees would have to transport tools they used to perform work for BURKE in their personal vehicles. Mr. Rios and the aggrieved employees were not paid for the time it took them to get to their first job site or back from their last job site.

Additionally, Mr. Rios and the aggrieved employees would have to work through their meal periods but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then BURKE would alter their time records to create the appearance of a lawful meal period. Thus, Mr. Rios and the aggrieved employees are owed wages for meal period time during which they are subject to BURKE's control and during which they are not free from all work duties.

Moreover, when Mr. Rios and the aggrieved employees did take meal periods they are not relieved of all duties and/or employer control during their unpaid meal periods. Mr. Rios and the aggrieved employees are informed and believe and thereon allege that BURKE breached the legal duty to pay for all hours worked by Mr. Rios by failing to pay Mr. Rios and similarly aggrieved employees for meal period time when Mr. Rios and the aggrieved employees were not relieved of all duties and/or employer control.

Mr. Rios and the aggrieved employees are informed and believe and thereon allege that BURKE breached the legal duty to pay full wages to Mr. Rios by failing to pay Mr. Rios and similarly aggrieved employees for meal period time when Mr. Rios and the aggrieved employees were not relieved of all duties and/or employer control.

BURKE committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Rios and the aggrieved employees. BURKE acted with malice or in conscious disregard of Mr. Rios's and the aggrieved employees' rights.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 1194, 1194.2, 1197.1, and 1199.

II. BURKE Fails to Pay All Overtime Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than two (2) times the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than two (2) times the regular rate of pay of an employee.

BURKE failed to pay overtime when Mr. Rios and the aggrieved employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week.

Mr. Rios and the aggrieved employees were deprived of wages for overtime hours worked because BURKE failed to pay them overtime wages for all overtime hours worked. This resulted in Mr. Rios and the aggrieved employees not being paid all overtime wages owed to them.

BURKE also failed to pay Mr. Rios and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week, thus depriving Mr. Rios and the aggrieved employees of overtime wages.

BURKE has a continuous policy of not paying Mr. Rios and the aggrieved employees for all hours worked. Specifically, BURKE has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. Because Mr. Rios and the aggrieved employees ordinarily work shifts lasting over eight (8) hours, the majority of these unpaid hours would qualify for the overtime rate.

Further, BURKE requires Mr. Rios and the aggrieved employees to use their personal vehicles for work related purposes. Ms. Rios and the aggrieved employees would have to transport tools they used to perform work for BURKE in their personal vehicles. Mr. Rios and the aggrieved employees were not paid for the time it took them to get to their first job site or back from their last job site. Because Mr. Rios and the aggrieved employees ordinarily work shifts lasting over eight (8) hours, the majority of these unpaid hours would qualify for the overtime rate.

Additionally, Mr. Rios and the aggrieved employees would have to work through their meal periods but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then BURKE would alter their time records to create the appearance of a lawful meal period. Thus, Mr. Rios and the aggrieved employees are owed wages for meal period time during which they are subject to BURKE's control and during which they are not free from all work duties.

When Mr. Rios and the aggrieved employees work over eight (8) hours in a shift, these unpaid hours must be compensated at an overtime rate.

Moreover, when Mr. Rios and the aggrieved employees did take meal periods they are not relieved of all duties and/or employer control during their unpaid meal periods. Mr. Rios and the aggrieved employees are informed and believe and thereon allege that BURKE breached the legal duty to pay for all hours worked by Mr. Rios by failing to pay Mr. Rios and similarly aggrieved employees for meal period time when Mr. Rios and the aggrieved employees were not relieved of all duties and/or employer control. When Mr. Rios and the aggrieved employees work over eight (8) hours in a shift, these unpaid hours must be compensated at an overtime rate.

Mr. Rios and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. BURKE Failed to Provide Lawful Meal Periods

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

BURKE breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Mr. Rios and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by BURKE, thereby denying Mr. Rios and the aggrieved employees of the right to be completely free from employer control under California law. In addition, Mr. Rios and the aggrieved employees would have to work through their meal periods and could not leave the premises but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then BURKE would alter their time records to create the appearance of a lawful meal period even though no such meal period was taken. Thus, Mr. Rios and the aggrieved employees did not receive lawful meal periods while working for BURKE.

When Mr. Rios and the aggrieved employees are able to take a meal period, Mr. Rios and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods.

Alternatively, BURKE breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, BURKE fails to provide Mr. Rios and the aggrieved employees with meal periods within the first five (5) continuous hours of work. Mr. Rios and the aggrieved employees can only take meal periods when their foreman tells them to. As such, if Mr. Rios's and the aggrieved employees' time records show late or missed meal periods, this is due to BURKE failing to provide meal periods in accordance with California law.

Further, BURKE instituted a consistent policy/practice of not providing second meal periods to Mr. Rios and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. Rios and the aggrieved employees are required to work shifts greater than ten (10) hours long but never received second meal periods in shifts over ten (10) hours long.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, BURKE willfully violated the provisions of *Labor Code* sections 226.7 and 512.

BURKE's policies fail to provide meal periods to employees that are at least thirty minutes long. BURKE's policies also state that employees may be "confined to [the] plant premises" or other worksite during meal periods.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

IV. BURKE Failed to Provide Lawful Rest Periods

BURKE has had a consistent policy and/or practice of not providing duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. Rios and the aggrieved employees.

Industrial Welfare Commission Order No. 16-2001 section 11(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period....The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof."

BURKE breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Mr. Rios and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by BURKE, thereby denying Mr. Rios and the aggrieved employees of the right to be completely free from employer control under California law.

Additionally, BURKE has a continuous policy and practice that fails to provide Mr. Rios and the aggrieved employees with rest periods “at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof.” Specifically, BURKE does not provide Mr. Rios and the aggrieved employees with rest periods consisting of ten (10) minutes net rest time, nor does BURKE provide them with a rest period per four (4) hours worked or major fraction thereof.

Further, when Mr. Rios and the aggrieved employees are able to take a rest period, Mr. Rios and the aggrieved employees are not relieved of all duties and/or employer control during their rest periods.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, BURKE willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 16-2001 section 18 for violations of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

V. BURKE Failed to Provide Recovery Periods

BURKE and Legend Transportation have a consistent policy and/or practice of not providing preventative cool down rest and recovery periods under California Code of Regulations section 3395 to Mr. Rios and the aggrieved employees.

Under section 3395, shade shall be present when the temperature exceeds 80 degrees Fahrenheit. Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel need to do so to protect themselves from overheating for no less than 5 minutes in addition to the time needed to access the shade.

BURKE and Legend Transportation have a consistent policy and/or practice of not providing preventative cool-down rest and recovery periods to Mr. Rios and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, BURKE failed to provide Mr. Rios and the

aggrieved employees with access to shade and preventative cool-down recovery periods when the applicable temperatures were reached.

By failing to provide preventative cool-down rest and recovery periods to non-exempt employees, and by failing to provide compensation for these unprovided periods, as alleged above, BURKE and Legend Transportation willfully violated the provisions of *Labor Code* section 226.7.

These claims are on behalf of Mr. Rios and all hourly, non-exempt employees who worked for BURKE in the State of California.

Mr. Rios, as a non-exempt employee who was unlawfully deprived of preventative cool-down rest and recovery periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 226.7.

VI. BURKE Failed to Pay All Wages Due at Termination and During Employment

BURKE willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left BURKE'S employ or who were terminated.

The aggrieved employees who ended their employment with BURKE during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, BURKE intentionally and willfully failed to pay the aggrieved employees who are no longer employed by BURKE their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving BURKE'S employ.

BURKE has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving BURKE's employ.

As outlined above, BURKE has a continuous policy of not paying Mr. Rios and similarly aggrieved employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. For example, Mr. Rios and the aggrieved employees are not paid for commute time and for time spent working during unpaid meal periods. Thus, Mr. Rios and the aggrieved employees are owed wages for the unpaid time during which they are subject to BURKE's control and/or during which they are not free from all work duties.

In addition, BURKE fails to pay all meal and rest period premiums owed to Mr. Rios and the aggrieved employees at the time of termination.

BURKE'S failure to pay the aggrieved employees who are no longer employed by BURKE their wages, that were earned and unpaid, at the time of termination or within seventy-two (72) hours of their leaving BURKE'S employ, is in violation of *California Labor Code* sections 201 and 202.

California Labor Code section 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the wages shall not continue for more than thirty (30) days.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

VII. BURKE's Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires BURKE to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. Rios and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that BURKE, at the time of each payment of wages, "furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee..."

California Labor Code section 226, subdivision (a) also requires that "deductions made from payment of wages shall be recorded in ink or other indelible form, properly dates, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California" to itemize in wage statements and to accurately report the total

hours worked and total wages earned.

In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” An employer complies with *California Labor Code* section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

BURKE has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Mr. Rios and the other aggrieved employees.

In every pay period during the period of the relevant statute of limitations, BURKE knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, BURKE knowingly and intentionally did not include the total hours worked on wage statements. BURKE therefore knowingly and intentionally failed to itemize the total hours worked on Mr. Rios’s and the aggrieved employees’ wage statements.

In every pay period during the period of the relevant statute of limitations, BURKE knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. BURKE has a continuous policy of not paying Mr. Rios and similarly aggrieved employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. For example, Mr. Rios and the aggrieved employees are not paid for commute time or for time spent working during unpaid meal periods. Thus, Mr. Rios and the aggrieved employees are owed wages for the unpaid time during which they are subject to BURKE’s control and/or during which they are not free from all work duties. As BURKE knew or had reason to know Mr. Rios and the aggrieved employees were working during this time, BURKE knowingly and intentionally failed to comply with *Labor Code* Section 226, subdivision (a).

In addition, BURKE failed to pay all meal and rest period premiums owed to Mr. Rios and the aggrieved employees for unprovided meal and rest periods.

BURKE also failed to itemize the amount of sick leave available for use on employee’s wage statements in violation of *California Labor Code* section 246(i).

Throughout the statutory period, as a result of the knowing and intentional failure by BURKE to comply with itemized employee wage statement provisions, Mr. Rios and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, in addition to any penalties levied upon BURKE for its failure to comply with *California Labor Code* section 226 subdivision (a)’s requirement to provide Mr. Rios and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses

additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires BURKE to maintain records that “accurately shows all of the information required by this subdivision.” BURKE has violated its statutory duty to maintain records for Mr. Rios and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a non-exempt employee who BURKE failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

VIII. BURKE Failed to Provide Paid Sick Days

Section 246(a) of the *California Labor Code* requires “[a]n employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, “an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.”

California Labor Code section 246(b) requires “[a]n employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked....” Employers may only use a different accrual method if “the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.” Cal. Lab. Code § 246(b)(3).

California Labor Code section 246(d) requires that “[a]ccrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee’s use of accrued paid sick days to 24 hours or three days in each year of employment, calendar year, or 12-month period. This section shall be satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period....”

California Labor Code section 246(i) requires that, “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

California Labor Code section 233(c) states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to

attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5” *California Labor Code* section 233(d) provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

California Labor Code section 234 further forbids employers from adopting an “absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

BURKE operates under an absence control policy that counts absences due to illness taken pursuant to *California Labor Code* sections 233, 248.2, and 248.6 as an unexcused absence. Thus, BURKE’s sick pay policy punishes employees for use of protected and appropriate sick leave. BURKE further failed to provide paid sick days for all hours worked in compliance with these sections.

In addition, BURKE fails to provide employees with written notice that sets forth the amount of sick leave available for use, either in employees’ itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 246 and 247.5.

IX. BURKE Failed to Reimburse Employees for Business Expenses

Section 2802(a) of the *California Labor Code* requires “[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

Mr. Rios and the aggrieved employees incurred expenses necessary for the discharge of their duties without receiving reimbursement from BURKE. These expenses include, but are not limited to, the purchase of tools for use in performing Ms. Rios’ and the aggrieved employees’ job duties. These tools include but are not limited to a hammer, saw, pliers, wire reel, and belt.

In addition, BURKE required Mr. Rios and the aggrieved employees to use their personal cell phones for business purposes but failed to reimburse this expense. BURKE required employees to clock-in and clock-out on a smartphone application called ExactTime. Mr. Rios and the aggrieved employees had to use their personal cell phones for this process as well as for calls and/or text messages to communicate with their managers and supervisors throughout the day.

Further, BURKE required Mr. Rios and the aggrieved employees to purchase and wear steel toed boots. BURKE failed to reimburse Mr. Rios and the aggrieved employees for this expense.

Moreover, BURKE requires employees to use their personal vehicles for business purposes. BURKE required Mr. Rios and the aggrieved employees to use their personal vehicles to travel to and from the locations of BURKE's customers but failed to reimburse Mr. Rios and the aggrieved employees for this use.

California Labor Code section 2802(a) entitles Mr. Rios and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Mr. Rios satisfies all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802(a).

X. BURKE Failed to Pay Employees Twice Per Month

Section 204(a) of the *California Labor Code* required BURKE to pay Mr. Rios and the aggrieved employees twice during each calendar month.

California Labor Code section 204 subdivision (a) provides "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month."

During the relevant time period, BURKE intentionally and willfully failed to pay Mr. Rios and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

BURKE's failure to pay Mr. Rios and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

During the relevant time period, BURKE intentionally and willfully failed to pay Mr. Rios and the aggrieved employees their wages, that were earned and unpaid, within the timeframes as required by *California Labor Code* section 204. Further, BURKE informs employees that "[i]n the event that a regularly scheduled payday falls on a day off such as a weekend or holiday, employees will be paid on the first day of work following the regularly scheduled payday." Company Handbook at p. 8. When "a regular payday falls during an employee's vacation, the employee's paycheck will be available upon his or her return from vacation." *Id.*

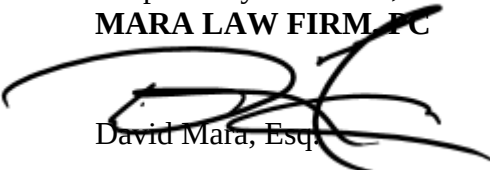
These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of section 204.

XI. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Rios will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC



David Mara, Esq.

Attn: PAGA Administrator
California Labor and Workforce Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Web Submission

Elizabeth Fleming
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Agent for Service of Process for Defendant Burke Masonry Services Inc.
Via Certified Mail

Burke Masonry Services Inc.
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Via U.S. Mail

Case Name: **Burke Masonry Services Inc.**

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of: San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is:
2650 Camino Del Rio North, Suite 302 San Diego, CA 92108

On April 19, 2024, I served the foregoing document(s) described as:

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

On interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Elizabeth Fleming
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Agent for Service of Process for Defendant
Burke Masonry Services Inc.
Via Certified Mail

Attn: PAGA Administrator
**California Labor and Workforce
Development Agency**
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Electronic Filing

Burke Masonry Services Inc.
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Via U.S. Mail

[XX] (BY UNITED STATES CERTIFIED MAIL) On April 19, 2024, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses named above and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

[XX] (BY ELECTRONIC SUBMISSION) On April 19, 2024, I caused the documents to be sent to the persons at the electronic notification addresses of the parties named above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[XX] (DECLARATION) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: April 19, 2024


Coley Hayes

Coley Hayes

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Friday, April 19, 2024 11:34 AM
To: Coley Hayes
Subject: Thank you for submission of your PAGA Case.

4/19/2024

LWDA Case No. LWDA-CM-1023359-24
Law Firm : Mara Law Firm
Plaintiff Name : Jose Rios
Employer: Burke Masonry Services Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Exhibit 8

David Mara
Jill Vecchi
Grace Campbell
Taylor Hanks
Joann B. Gerrity
Matthew Crawford



2650 Camino Del Rio North
Suite 302, San Diego, CA 92108
Phone: (619) 234-2833
Fax: (619) 234-4048

MaraLawFirm.com

May 8, 2024

Via Upload to the LWDA Website and U.S. Certified Mail

**AMENDED NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency; Burke Masonry Services Inc.

*Jose Rios, on behalf of himself, others similarly situated, and the general public v. Burke
Masonry Services Inc.*

Factual Statement and Theories of Labor Code Violations

Jose Rios was formerly employed by Burke Masonry Services Inc. ("BURKE") as a non-exempt hourly employee in California. Mr. Rios worked as a general laborer employee. Mr. Rios's employment with BURKE ended on or about April 5, 2024.

Mr. Rios gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for BURKE's failure to comply with California's wage and hour requirements on behalf of himself and similarly aggrieved employees.

BURKE is a complete masonry firm specializing in commercial and residential projects. BURKE employs hourly non-exempt employees, such as Mr. Rios, to perform these services in California.

I. BURKE Fails to Pay All Straight Time Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is

expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

BURKE has a continuous policy of not paying Mr. Rios and the aggrieved employees for all hours worked. Specifically, BURKE has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. Thus, Mr. Rios and the aggrieved employees are owed wages for the unpaid time during which they are subject to BURKE's control and/or during which they are not free from all work duties.

Further, BURKE requires Mr. Rios and the aggrieved employees to use their personal vehicles for work related purposes. Mr. Rios and the aggrieved employees would have to transport tools they used to perform work for BURKE in their personal vehicles. Mr. Rios and the aggrieved employees were not paid for the time it took them to get to their first job site or back from their last job site.

Additionally, Mr. Rios and the aggrieved employees would have to work through their meal periods but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then BURKE would alter their time records to create the appearance of a lawful meal period. Thus, Mr. Rios and the aggrieved employees are owed wages for meal period time during which they are subject to BURKE's control and during which they are not free from all work duties.

Moreover, when Mr. Rios and the aggrieved employees did take meal periods they are not relieved of all duties and/or employer control during their unpaid meal periods. Mr. Rios and the aggrieved employees are informed and believe and thereon allege that BURKE breached the legal duty to pay for all hours worked by Mr. Rios by failing to pay Mr. Rios and similarly aggrieved employees for meal period time when Mr. Rios and the aggrieved employees were not relieved of all duties and/or employer control.

Mr. Rios and the aggrieved employees are informed and believe and thereon allege that BURKE breached the legal duty to pay full wages to Mr. Rios by failing to pay Mr. Rios and similarly aggrieved employees for meal period time when Mr. Rios and the aggrieved employees were not relieved of all duties and/or employer control.

BURKE committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Rios and the aggrieved employees. BURKE acted with malice or in conscious disregard of Mr. Rios's and the aggrieved employees' rights.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 1194, 1194.2, 1197.1, and 1199.

II. BURKE Fails to Pay All Overtime Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than two (2) times the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than two (2) times the regular rate of pay of an employee.

BURKE failed to pay overtime when Mr. Rios and the aggrieved employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week.

Mr. Rios and the aggrieved employees were deprived of wages for overtime hours worked because BURKE failed to pay them overtime wages for all overtime hours worked. This resulted in Mr. Rios and the aggrieved employees not being paid all overtime wages owed to them.

BURKE also failed to pay Mr. Rios and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week, thus depriving Mr. Rios and the aggrieved employees of overtime wages.

BURKE has a continuous policy of not paying Mr. Rios and the aggrieved employees for all hours worked. Specifically, BURKE has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. Because Mr. Rios and the aggrieved employees ordinarily work shifts lasting over eight (8) hours, the majority of these unpaid hours would qualify for the overtime rate.

Further, BURKE requires Mr. Rios and the aggrieved employees to use their personal vehicles for work related purposes. Ms. Rios and the aggrieved employees would have to transport tools they used to perform work for BURKE in their personal vehicles. Mr. Rios and the aggrieved employees were not paid for the time it took them to get to their first job site or back from their last job site. Because Mr. Rios and the aggrieved employees ordinarily work shifts lasting over eight (8) hours, the majority of these unpaid hours would qualify for the overtime rate.

Additionally, Mr. Rios and the aggrieved employees would have to work through their meal periods but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then BURKE would alter their time records to create the appearance of a lawful meal period. Thus, Mr. Rios and the aggrieved employees are owed wages for meal period time during which they are subject to BURKE's control and during which they are not free from all work duties.

When Mr. Rios and the aggrieved employees work over eight (8) hours in a shift, these unpaid hours must be compensated at an overtime rate.

Moreover, when Mr. Rios and the aggrieved employees did take meal periods they are not relieved of all duties and/or employer control during their unpaid meal periods. Mr. Rios and the aggrieved employees are informed and believe and thereon allege that BURKE breached the legal duty to pay for all hours worked by Mr. Rios by failing to pay Mr. Rios and similarly aggrieved employees for meal period time when Mr. Rios and the aggrieved employees were not relieved of all duties and/or employer control. When Mr. Rios and the aggrieved employees work over eight (8) hours in a shift, these unpaid hours must be compensated at an overtime rate.

Mr. Rios and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. BURKE Failed to Provide Lawful Meal Periods

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

BURKE breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Mr. Rios and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by BURKE, thereby denying Mr. Rios and the aggrieved employees of the right to be completely free from employer control under California law. In addition, Mr. Rios and the aggrieved employees would have to work through their meal periods and could not leave the premises but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then BURKE would alter their time records to create the appearance of a lawful meal period even though no such meal period was taken. Thus, Mr. Rios and the aggrieved employees did not receive lawful meal periods while working for BURKE.

When Mr. Rios and the aggrieved employees are able to take a meal period, Mr. Rios and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods.

Alternatively, BURKE breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, BURKE fails to provide Mr. Rios and the aggrieved employees with meal periods within the first five (5) continuous hours of work. Mr. Rios and the aggrieved employees can only take meal periods when their foreman tells them to. As such, if Mr. Rios's and the aggrieved employees' time records show late or missed meal periods, this is due to BURKE failing to provide meal periods in accordance with California law.

Further, BURKE instituted a consistent policy/practice of not providing second meal periods to Mr. Rios and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. Rios and the aggrieved employees are required to work shifts greater than ten (10) hours long but never received second meal periods in shifts over ten (10) hours long.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, BURKE willfully violated the provisions of *Labor Code* sections 226.7 and 512.

BURKE's policies fail to provide meal periods to employees that are at least thirty minutes long. BURKE's policies also state that employees may be "confined to [the] plant premises" or other worksite during meal periods.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

IV. BURKE Failed to Provide Lawful Rest Periods

BURKE has had a consistent policy and/or practice of not providing duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. Rios and the aggrieved employees.

Industrial Welfare Commission Order No. 16-2001 section 11(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period....The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof."

BURKE breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Mr. Rios and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by BURKE, thereby denying Mr. Rios and the aggrieved employees of the right to be completely free from employer control under California law.

Additionally, BURKE has a continuous policy and practice that fails to provide Mr. Rios and the aggrieved employees with rest periods “at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof.” Specifically, BURKE does not provide Mr. Rios and the aggrieved employees with rest periods consisting of ten (10) minutes net rest time, nor does BURKE provide them with a rest period per four (4) hours worked or major fraction thereof.

Further, when Mr. Rios and the aggrieved employees are able to take a rest period, Mr. Rios and the aggrieved employees are not relieved of all duties and/or employer control during their rest periods.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, BURKE willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 16-2001 section 18 for violations of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

V. BURKE Failed to Provide Recovery Periods

BURKE and Legend Transportation have a consistent policy and/or practice of not providing preventative cool down rest and recovery periods under California Code of Regulations section 3395 to Mr. Rios and the aggrieved employees.

Under section 3395, shade shall be present when the temperature exceeds 80 degrees Fahrenheit. Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel need to do so to protect themselves from overheating for no less than 5 minutes in addition to the time needed to access the shade.

BURKE and Legend Transportation have a consistent policy and/or practice of not providing preventative cool-down rest and recovery periods to Mr. Rios and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, BURKE failed to provide Mr. Rios and the

aggrieved employees with access to shade and preventative cool-down recovery periods when the applicable temperatures were reached.

By failing to provide preventative cool-down rest and recovery periods to non-exempt employees, and by failing to provide compensation for these unprovided periods, as alleged above, BURKE and Legend Transportation willfully violated the provisions of *Labor Code* section 226.7.

These claims are on behalf of Mr. Rios and all hourly, non-exempt employees who worked for BURKE in the State of California.

Mr. Rios, as a non-exempt employee who was unlawfully deprived of preventative cool-down rest and recovery periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 226.7.

VI. BURKE Failed to Pay All Wages Due at Termination and During Employment

BURKE willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left BURKE'S employ or who were terminated.

The aggrieved employees who ended their employment with BURKE during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, BURKE intentionally and willfully failed to pay the aggrieved employees who are no longer employed by BURKE their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving BURKE'S employ.

BURKE has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving BURKE's employ.

As outlined above, BURKE has a continuous policy of not paying Mr. Rios and similarly aggrieved employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. For example, Mr. Rios and the aggrieved employees are not paid for commute time and for time spent working during unpaid meal periods. Thus, Mr. Rios and the aggrieved employees are owed wages for the unpaid time during which they are subject to BURKE's control and/or during which they are not free from all work duties.

In addition, BURKE fails to pay all meal and rest period premiums owed to Mr. Rios and the aggrieved employees at the time of termination.

BURKE'S failure to pay the aggrieved employees who are no longer employed by BURKE their wages, that were earned and unpaid, at the time of termination or within seventy-two (72) hours of their leaving BURKE'S employ, is in violation of *California Labor Code* sections 201 and 202.

California Labor Code section 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the wages shall not continue for more than thirty (30) days.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

VII. BURKE's Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires BURKE to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. Rios and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that BURKE, at the time of each payment of wages, "furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee..."

California Labor Code section 226, subdivision (a) also requires that "deductions made from payment of wages shall be recorded in ink or other indelible form, properly dates, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California" to itemize in wage statements and to accurately report the total

hours worked and total wages earned.

In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” An employer complies with *California Labor Code* section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

BURKE has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Mr. Rios and the other aggrieved employees.

In every pay period during the period of the relevant statute of limitations, BURKE knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, BURKE knowingly and intentionally did not include the total hours worked on wage statements. BURKE therefore knowingly and intentionally failed to itemize the total hours worked on Mr. Rios’s and the aggrieved employees’ wage statements.

In every pay period during the period of the relevant statute of limitations, BURKE knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. BURKE has a continuous policy of not paying Mr. Rios and similarly aggrieved employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Rios and the aggrieved employees are not paid for this time. For example, Mr. Rios and the aggrieved employees are not paid for commute time or for time spent working during unpaid meal periods. Thus, Mr. Rios and the aggrieved employees are owed wages for the unpaid time during which they are subject to BURKE’s control and/or during which they are not free from all work duties. As BURKE knew or had reason to know Mr. Rios and the aggrieved employees were working during this time, BURKE knowingly and intentionally failed to comply with *Labor Code* Section 226, subdivision (a).

In addition, BURKE failed to pay all meal and rest period premiums owed to Mr. Rios and the aggrieved employees for unprovided meal and rest periods.

BURKE also failed to itemize the amount of sick leave available for use on employee’s wage statements in violation of *California Labor Code* section 246(i).

Throughout the statutory period, as a result of the knowing and intentional failure by BURKE to comply with itemized employee wage statement provisions, Mr. Rios and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, in addition to any penalties levied upon BURKE for its failure to comply with *California Labor Code* section 226 subdivision (a)’s requirement to provide Mr. Rios and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses

additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires BURKE to maintain records that “accurately shows all of the information required by this subdivision.” BURKE has violated its statutory duty to maintain records for Mr. Rios and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a non-exempt employee who BURKE failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Rios has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

VIII. BURKE Failed to Provide Paid Sick Days

Section 246(a) of the *California Labor Code* requires “[a]n employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, “an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.”

California Labor Code section 246(b) requires “[a]n employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked....” Employers may only use a different accrual method if “the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.” Cal. Lab. Code § 246(b)(3).

California Labor Code section 246(d) requires that “[a]ccrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee’s use of accrued paid sick days to 24 hours or three days in each year of employment, calendar year, or 12-month period. This section shall be satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period....”

California Labor Code section 246(i) requires that, “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

California Labor Code section 233(c) states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to

attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5” *California Labor Code* section 233(d) provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

California Labor Code section 234 further forbids employers from adopting an “absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

BURKE operates under an absence control policy that counts absences due to illness taken pursuant to *California Labor Code* sections 233, 248.2, and 248.6 as an unexcused absence. Thus, BURKE’s sick pay policy punishes employees for use of protected and appropriate sick leave. BURKE further failed to provide paid sick days for all hours worked in compliance with these sections.

In addition, BURKE fails to provide employees with written notice that sets forth the amount of sick leave available for use, either in employees’ itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 246 and 247.5.

IX. BURKE Failed to Reimburse Employees for Business Expenses

Section 2802(a) of the *California Labor Code* requires “[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

Mr. Rios and the aggrieved employees incurred expenses necessary for the discharge of their duties without receiving reimbursement from BURKE. These expenses include, but are not limited to, the purchase of tools for use in performing Ms. Rios’ and the aggrieved employees’ job duties. These tools include but are not limited to a hammer, saw, pliers, wire reel, and belt.

In addition, BURKE required Mr. Rios and the aggrieved employees to use their personal cell phones for business purposes but failed to reimburse this expense. BURKE required employees to clock-in and clock-out on a smartphone application called ExactTime. Mr. Rios and the aggrieved employees had to use their personal cell phones for this process as well as for calls and/or text messages to communicate with their managers and supervisors throughout the day.

Further, BURKE required Mr. Rios and the aggrieved employees to purchase and wear steel toed boots. BURKE failed to reimburse Mr. Rios and the aggrieved employees for this expense.

Moreover, BURKE requires employees to use their personal vehicles for business purposes. BURKE required Mr. Rios and the aggrieved employees to use their personal vehicles to travel to and from the locations of BURKE's customers but failed to reimburse Mr. Rios and the aggrieved employees for this use.

California Labor Code section 2802(a) entitles Mr. Rios and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Mr. Rios satisfies all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802(a).

X. BURKE Failed to Pay Employees Twice Per Month

Section 204(a) of the *California Labor Code* required BURKE to pay Mr. Rios and the aggrieved employees twice during each calendar month.

California Labor Code section 204 subdivision (a) provides "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month."

During the relevant time period, BURKE intentionally and willfully failed to pay Mr. Rios and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

BURKE's failure to pay Mr. Rios and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

During the relevant time period, BURKE intentionally and willfully failed to pay Mr. Rios and the aggrieved employees their wages, that were earned and unpaid, within the timeframes as required by *California Labor Code* section 204. Further, BURKE informs employees that "[i]n the event that a regularly scheduled payday falls on a day off such as a weekend or holiday, employees will be paid on the first day of work following the regularly scheduled payday." Company Handbook at p. 8. When "a regular payday falls during an employee's vacation, the employee's paycheck will be available upon his or her return from vacation." *Id.*

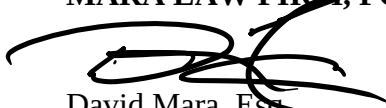
These claims are for Mr. Rios and all similarly situated non-exempt employees who worked for BURKE in California.

Mr. Rios, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of section 204.

XI. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Rios will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC



David Mara, Esq.

Attn: PAGA Administrator
California Labor and Workforce Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Web Submission

Elizabeth Fleming
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Agent for Service of Process for Defendant Burke Masonry Services Inc.
Via Certified Mail

Burke Masonry Services Inc.
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Via U.S. Mail

Case Name: **Burke Masonry Services Inc.**

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of: San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is:
2650 Camino Del Rio North, Suite 302 San Diego, CA 92108

On May 8, 2024, I served the foregoing document(s) described as:

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

On interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Elizabeth Fleming
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Agent for Service of Process for Defendant
Burke Masonry Services Inc.
Via Certified Mail

Attn: PAGA Administrator
**California Labor and Workforce
Development Agency**
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Electronic Filing

Burke Masonry Services Inc.
1537 East McFadden Avenue, #F
Santa Ana, CA 92705
Via U.S. Mail

[XX] (BY UNITED STATES CERTIFIED MAIL) On May 8, 2024, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses named above and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

[XX] (BY ELECTRONIC SUBMISSION) On May 8, 2024, I caused the documents to be sent to the persons at the electronic notification addresses of the parties named above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[XX] (DECLARATION) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: May 8, 2024


Coley Hayes

Coley Hayes

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, May 8, 2024 11:43 AM
To: Coley Hayes
Subject: Thank you for your Amended PAGA Claim Notice Submission.

05/08/2024 11:42:07 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Exhibit 9