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Superior Court of California
County of Sacramento
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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

NICHOLAS GOMEZ, On Behalf of the State of
California and Aggrieved Employees

Plaintiff,

v.

MASTEC, INC., a Florida corporation, **MASTEC
NORTH AMERICA, INC.**, a Florida
corporation, **MASTEC WEST, LLC**, a Delaware
limited liability company, **MASTEC NETWORK
SOLUTIONS, INC.**, a Florida corporation,
MASTEC NETWORK SOLUTIONS, LLC, a
Florida limited liability company, and **DOES 1
through 50**, inclusive;

Defendant.

Case No. **24CV015125**

**COMPLAINT FOR CIVIL PENALTIES
PURSUANT TO THE CALIFORNIA
LABOR CODE § 2699(a) & (f)
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

1 Plaintiff Nicholas Gomez (“Gomez”), on behalf of the State of California and Aggrieved
2 Employees (defined below), complains and alleges as follows:

3 **SUMMARY**

4 1. Gomez, on behalf of the State of California and the other Aggrieved Employees brings
5 this enforcement action pursuant to the California Labor Code Private Attorneys General Act of 2004
6 (“PAGA”) against MasTec, Inc., MasTec North America, Inc., MasTec West, LLC, MasTec Network
7 Solutions, Inc., MasTec Network Solutions, LLC, and other Related Entities (“MasTec” or
8 “Defendants”) on behalf of individuals who work for or have worked for MasTec who have been denied
9 overtime wages, have not received compliant meal and/or rest breaks and have not received premium
10 compensation for such missed meal and rest breaks, have been required to exceed maximum hours of
11 work fixed by relevant Industrial Wage Commission (“IWC”) Wage Orders (“Wage Orders”), have been
12 denied accurate and/or compliant itemized wage statements, have been denied all wages due at the end
13 of their employment, and/or have been denied employee records upon request, at any time since one
14 year and 65 days before the filing of this Complaint until final resolution of this Action (the “Aggrieved
15 Employees”).

16 2. MasTec pays Aggrieved Employees on an hourly basis.

17 3. Aggrieved Employees regularly work more than 8 hours a day and more than 40 hours a
18 week.

19 4. Aggrieved Employees also occasionally work double time hours.

20 5. But MasTec does not pay Aggrieved Employees for all their hours worked, including
21 overtime and double time hours.

22 6. Instead, MasTec requires Aggrieved Employees to work “off the clock” without
23 compensation by instructing them to forego tracking hours worked before they “clock in” for the day
24 and after they “clock out” for the day.

25 7. As a result of MasTec’s conduct, Aggrieved Employees are not paid all straight time wages
26 owed, nor are they paid all overtime and double time wages owed during such “off-the-clock” work.

27 8. But to meet MasTec’s strict productivity requirements and quality standards, Aggrieved
28

1 Employees are nonetheless forced to perform their regular work duties “off the clock” before and after
2 their “on the clock” shifts.

3 9. Gomez and the other Aggrieved Employees are thus not paid for the time they spend
4 performing this pre- and post-shift work “off the clock.”

5 10. Further, MasTec frequently does not authorize, permit, and make available compliant meal
6 and/or rest periods to Aggrieved Employees, which they are entitled to under the California Labor Code
7 and relevant Wage Orders.

8 11. Thus, MasTec fails to authorize, permit, and/or make available required meal and/or rest
9 periods to Aggrieved Employees.

10 12. Further, MasTec fails to provide premium compensation for missed and denied meal
11 and/or rest periods.

12 13. And MasTec’s violative policies and practices result in non-compliant wage statements.

13 14. Among other things, the wage statements MasTec provides to Aggrieved Employees fail
14 to accurately reflect their total hours worked, gross wages earned, net wages earned, and/or premium
15 pay owed.

16 15. Because of MasTec’s failure to pay all wages (including straight time wages, overtime
17 wages, double time wages, and premium pay) owed, Aggrieved Employees do not receive all wages owed
18 during employment.

19 16. Therefore, Aggrieved Employees who are MasTec’s former employees do not receive all
20 wages owed following separation from employment.

21 17. Finally, On April 1, 2024, Gomez submitted a formal written request to MasTec (by and
22 through his retained counsel) requesting his payroll records pursuant to Labor Code § 226.

23 18. Gomez’s written request for copies/production of his payroll records was delivered to
24 MasTec on April 4, 2024.

25 19. More than 21 days passed, and MasTec failed to furnish Gomez with his requested payroll
26 records.

20. Gomez's written request also sought copies of his personnel file pursuant to Labor Code § 1198.5, and of any instruments relating to his obtaining or holding of employment (including any purported agreements to arbitrate) pursuant to Labor Code § 432.

21. More than 30 days passed from the time MasTec received the request for such personnel records, and MasTec failed to furnish Mr. Gomez with the requested personnel records.

22. Thus, MasTec violates the Labor Code by failing to provide requested personnel records to Aggrieved Employees.

23. Gomez brings these claims pursuant to PAGA to challenge MasTec's policies and practices of: (1) failing to pay Aggrieved Employees all wages, including overtime and double time wages, owed; (2) failing to provide or make available compliant meal and rest periods and failing to provide required premium compensation for missed meal and rest periods; (3) exceeding the maximum hours or work; (4) failing to pay Aggrieved Employees all wages owed upon separation from employment; (5) failing to provide Aggrieved Employees with accurate, itemized wage statements; and (6) failing to provide requested employee records.

24. Gomez brings this Action to recover all civil penalties and other PAGA damages on behalf of the State of California and Aggrieved Employees.

25. Gomez seeks to remedy the illegal pay practices MasTec has imposed and continues to impose on its workers in California, which deprive Aggrieved Employees of their lawfully earned compensation.

JURISDICTION & VENUE

26. This Court has jurisdiction over the State of California’s claims for civil penalties, by and through Gomez as the deputized PAGA representative, pursuant to the California Constitution, Article VI, section 10, which grants the Superior Court “original jurisdiction on all other causes” except those given by statute to other courts. The statute under which this Action is brought does not specify any other basis for jurisdiction.

27. Gomez electronically filed his written PAGA Notice with the California Labor and Workforce Development Agency (“LWDA”) on May 22, 2024, which is attached as **Exhibit 1**.

28. This Court has specific personal jurisdiction over Mastec because MasTec purposefully availed itself of the benefits of the State by doing business in and employing workers in California, including Gomez and the other Aggrieved Employees.

29. Venue is proper in this judicial district pursuant to CCP §§ 393 and/or 395.5.

30. MasTec employs Aggrieved Employees within Sacramento County.

31. MasTec conducts business in this County, employs Aggrieved Employees in this County, and therefore liability under PAGA arises in this County.

PARTIES

1. Gomez is an adult individual residing in Yolo, California.

2. Gomez worked for MasTec as a Tower Foreman in and around Sacramento County, California from approximately July 2022 through November 2023.

3. Throughout his employment, MasTec classified Gomez as non-exempt and paid him on an hourly basis.

4. Gomez brings this action on behalf of the State of California and on behalf of all of MasTec's current and former non-exempt employees employed in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et seq.* and who worked for MasTec any time since one year and 65 days before the filing of this Complaint until final resolution of this Action.

5. These employees are referred to as who are referred to as “Aggrieved Employees.”

6. Gomez is an “Aggrieved Employee” within the meaning of Labor Code § 2699(c) because MasTec employed him, and he suffered one or more of the alleged Labor Code and/or Wage Order violations committed by MasTec within the relevant limitations period.

7. Gomez and all other Aggrieved Employees are, and at all relevant times were, employees of MasTec, within the meanings set forth in the California Labor Code and the applicable Wage Order(s).

8. Each of the fictitiously named defendants participated in the acts alleged in this Complaint.

9. The true names and capacities of the defendants named as DOES 1 THROUGH 50, inclusive, are presently unknown to Gomez.

10. Gomez will amend this Complaint, setting forth the true names and capacities of these

1 fictitiously named defendants when their true names are ascertained.

2 11. Gomez is informed and believes, and on that basis alleges, that each of the fictitious
3 defendants have participated in the acts alleged in this Complaint.

4 12. MasTec, Inc. is a Florida corporation headquartered in Coral Gables, Florida. MasTec,
5 Inc. may be served with process through its registered agent: **Corporation Service Company, 1201**
6 **Hays Street, Tallahassee, Florida 32301.**

7 13. MasTec North America, Inc. is a Florida corporation headquartered in Coral Gables,
8 Florida. MasTec, Inc. may be served with process by serving its registered agent: **CSC - Lawyers**
9 **Incorporating Service, 2710 Gateway Oaks Drive, Sacramento, California 95833.**

10 14. MasTec West, LLC is a Delaware limited liability company headquartered in Coral Gables,
11 Florida. MasTec West, LLC may be served with process by serving its registered agent: **CSC - Lawyers**
12 **Incorporating Service, 2710 Gateway Oaks Drive, Sacramento, California 95833.**

13 15. MasTec Network Solutions, Inc. is a Florida corporation headquartered in Coral Gables,
14 Florida. MasTec Network Solutions, Inc. may be served with process by serving its registered agent:
15 **CSC - Lawyers Incorporating Service, 2710 Gateway Oaks Drive, Sacramento, California 95833.**

16 16. MasTec Network Solutions, LLC is a Florida limited liability company headquartered in
17 Coral Gables, Florida. MasTec Network Solutions, LLC may be served with process by serving its
18 registered agent: **CSC - Lawyers Incorporating Service, 2710 Gateway Oaks Drive, Sacramento,**
19 **California 95833.**

20 17. Defendants, including Does 1 through 50, were Gomez's and the other Aggrieved
21 Employees' employers or persons acting on behalf of their employer(s), within the meaning of California
22 Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
23 Labor Code or any provision regulating hours and days of work in any Wage Order and, as such, are
24 subject to civil penalties.

25 18. Defendants are collectively referred to herein as "MasTec."

26 19. MasTec was Gomez's and Aggrieved Employees' employers or persons acting on behalf
27 of their employer(s) either individually or as an officer, agent, or employees of another person, within
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the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than the minimum fixed by California state law, and as such, are subject to civil penalties.

FACTS

20. MasTec holds itself out as “provid[ing] comprehensive services and turnkey solutions for Telecom operators.”¹

21. To meet its business objectives, MasTec employs Tower Foreman, Tower Technicians, and similar job position, including Gomez and the other Aggrieved Employees, to provide construction, repair, and maintenance services to its clients’ telecommunication towers.

22. MasTec pays classifies Aggrieved Employees as non-exempt and pays them on an hourly basis.

23. While exact job titles and job duties may differ, Aggrieved Employees are subjected to the same or similar illegal pay practice(s) for similar work.

24. For example, Gomez worked for MasTec in and around Sacramento County, California from approximately July 2022 until November 2023.

25. MasTec required Gomez to report his “on the clock” work time to MasTec for approval through its uniform timekeeping system.

26. Throughout his employment, Gomez regularly worked more than 8 hours a workday and 40 hours a workweek.

27. Indeed, throughout his employment, Gomez typically worked 10 hours a day for at least 4 to 5 days a week (40 to 50 hours a week) “on the clock.”

28. But throughout his employment, MasTec required Gomez to work “off the clock,” before arriving at the job site and after leaving the job site, including taking and making calls to other MasTec employees, management, and clients and completing daily work reports and paperwork, without compensation to meet MasTec’s (and its clients’) strict productivity and quality standards.

29. Thus, MasTec did not pay Gomez for his mandatory and necessary “off the clock” work.

30. So, rather than receiving wages for all his hours worked, MasTec failed to pay Gomez for

¹ <https://www.mastecnetworksolutions.com/> (last visited July 15, 2024).

1 phone calls and work reports completed before arriving at the job site and after leaving the job site, in
2 willful violation of California law.

3 31. Likewise, rather than receiving overtime pay for all his hours worked over 8 in a workday
4 and 40 in a workweek, MasTec failed to pay Gomez for all the overtime hours he worked, in willful
5 violation of California law.

6 32. And rather than receiving double time pay for all hours worked over 12 in a workday,
7 MasTec failed to pay Gomez for the double time hours he worked, in willful violation of California law.

8 33. Further, throughout his employment, MasTec failed to authorize, permit, and/or make
9 available to Gomez compliant meal and rest periods and failed to pay him the required premium pay for
10 each meal and rest period MaTec denied him, in willful violation of California law.

11 34. And, throughout his employment, MasTec failed to provide Gomez with wage statements
12 that accurately reflected all his hours worked and all wages he actually earned at the required rates, in
13 willful violation of California law.

14 35. Finally, MasTec failed to provide Gomez's personnel file and payroll records in response
15 to Gomez's formal written request for the same.

16 36. On April 1, 2024, Mr. Gomez submitted a formal written request to MasTec (by and
17 through his counsel) requesting his personnel file and payroll records.

18 37. This request is attached as **Exhibit 2**.

19 38. USPS tracking information shows the letter requesting Gomez's personnel and payroll
20 records was delivered to MasTec on April 4, 2024.

21 39. However, MasTec never responded to Gomez's request for his personnel and payroll
22 records.

23 40. MasTec subjects the other Aggrieved Employees to the same illegal policies it imposed on
24 Gomez.

25 41. Like Gomez, MasTec classified its other Aggrieved Employees as non-exempt and pays
26 them on an hourly basis.

27 42. Like Gomez, MasTec requires its other Aggrieved Employees to report their "on the
28

1 clock” hours worked to MasTec for approval via MasTec’s uniform timekeeping system.

2 43. MasTec’s records show that, like Gomez, the other Aggrieved Employees regularly work
3 more than 40 hours a week and 8 hours a day “on the clock.”

4 44. Indeed, like Gomez, the other Aggrieved Employees typically work 10 hours a day for at
5 least 4 to 5 days a week (40 to 50 hours a week) “on the clock.”

6 45. MasTec uniformly subjects its other Aggrieved Employees to the same or similar policies,
7 procedures, and strict operational and productivity requirements that it imposed on Gomez.

8 46. MasTec uniformly requires the Aggrieved Employees to complete their work in a timely
9 manner per its company-wide policy.

10 47. And MasTec closely supervises and tracks Gomez’s and the other Aggrieved Employees’
11 productivity to ensure they comply with MasTec’s uniform expectations and complete their heavy
12 workloads.

13 48. Further, as with Gomez, MasTec does not pay its other Aggrieved Employees for all their
14 hours worked.

15 49. Instead, like Gomez, the other Aggrieved Employees must perform compensable work
16 “off the clock,” including taking and making phone calls and completing work reports and paperwork
17 before arriving at the job site and after leaving the job site, in willful violation of California law.

18 50. MasTec controls their “off the clock” work before and after leaving the job site, and this
19 “off the clock” work is undertaken for MasTec’s and its clients’ benefit, not the Aggrieved Employees’
20 benefit.

21 51. And this mandatory “off the clock” work is necessary to the principal work Gomez and
22 the Aggrieved Employees perform as MasTec Tower Technicians and Foreman.

23 52. Indeed, Gomez and other Aggrieved Employees cannot provide their tower tech services
24 to MasTec’s clients in accordance with MasTec’s productivity and operational requirements unless they
25 perform this “off the clock” work.

26 53. In other words, Gomez’s and the Aggrieved Employees’ mandatory “off the clock” work
27 is a fundamental requirement of their jobs as MasTec employees.

1 54. Indeed, MasTec could not eliminate this “off the clock” work altogether without impairing
2 Gomez’s and the Aggrieved Employees’ ability to perform their tower technician duties.

3 55. And MasTec knows Gomez and its other Aggrieved Employees perform this compensable
4 work “off the clock” because MasTec requires them to do so.

5 56. And MasTec knows that it must pay Aggrieved Employees for all hours MasTec suffers
6 or permits them to work.

7 57. But MasTec fails to exercise its duty as Gomez’s and the other Aggrieved Employees
8 employer to ensure they are not performing work that MasTec does not want performed “off the clock.”

9 58. Thus, MasTec requested, suffered, permitted, or allowed Gomez and its other Aggrieved
10 Employees to work “off the clock.”

11 59. Thus, Aggrieved Employees are denied wages for the time they spend performing
12 compensable work “off the clock” in willful violation of California law.

13 60. Likewise, Aggrieved Employees are denied overtime pay for the time they spend
14 performing compensable work “off the clock” during workdays in which they work over 8 hours and
15 workweeks in which they work over 40 hours, in willful violation of California law.

16 61. And Aggrieved Employees are denied double time pay for the time they spend performing
17 compensable work “off the clock” during workdays in which they work over 12 hours, in willful violation
18 of California law.

19 62. Further, like Gomez, MasTec fails to provide its other Aggrieved Employees with
20 compliant meal and rest periods.

21 63. Instead, MasTec requires the Aggrieved Employees to work continuously throughout their
22 shifts, and they are never fully relieved of all their duties for 30-minute meal periods, even when they
23 work more than 5 hours a day.

24 64. And Aggrieved Employees are not authorized and permitted to take a second duty free
25 30-minute meal period when they work more than 10 hours a day.

26 65. And they are not fully relieved of all their duties for 10-minute rest periods every 4 hours
27 they work or major fraction thereof.

66. Instead, MasTec requires Aggrieved Employees to work continuously throughout their shifts.

67. MasTec expects and requires Aggrieved Employees to be available to work during their entire shifts, even during any attempted meal or rest periods.

68. But, like Gomez, MasTec also fails to pay other Aggrieved Employees 1 hour of premium pay for each day MasTec denies them a compliant meal period, in willful violation of California law.

69. And MasTec also fails to pay Aggrieved Employees 1 hour of premium pay for each day MasTec denies them a compliant rest period, in willful violation of California law.

70. Finally, like Gomez, MasTec also fails to provide the other Aggrieved Employees with accurate itemized wage statements as required by California law.

71. The wage statements MasTec provides to Gomez and Aggrieved Employees are not accurate because they do not reflect the accurate number of hours worked, the actual gross wages earned, overtime wages earned, double time wages earned, premium pay earned, and/or actual net wages earned, in willful violation of California law.

72. As these Aggrieved Employees are owed unpaid wages, including overtime (and double time) wages when their employment ends, as well as premium wages, and these amounts remain unpaid under MasTec's policies and practices, MasTec fails to pay all wages due upon termination, in willful violation of California law.

73. MasTec's violations of the California Labor Code are willful, carried out in bad faith, and have caused significant damage to Aggrieved Employees.

COUNT I
PENALTIES PURSUANT TO LABOR CODE § 2699(a)

74. Gomez incorporates all other paragraphs by reference.

75. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

1 76. Labor Code § 203 provides, in relevant part:

2 If an employer willfully fails to pay, without abatement or reduction,
3 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
4 an employee who is discharged or who quits, the wages of the
5 employee shall continue as a penalty from the due date thereof at the
6 same rate until paid or until an action therefore is commenced; but the
7 wages shall not continue for more than 30 days.

8 77. Labor Code § 226(a) provides:

9 Every employer shall, semimonthly or at the time of each payment of
10 wages, furnish each of his or her employees, either as a detachable part
11 of the check, draft, or voucher paying the employee's wages, or
12 separately when wages are paid by personal check or cash, an accurate
13 itemized statement in writing showing (1) gross wages earned, (2) total
14 hours worked by the employee, except for any employee whose
15 compensation is solely based on a salary and who is exempt from
16 payment of overtime under subdivision (a) of Section 515 or any
17 applicable order of the Industrial Welfare Commission, (3) the
18 number of piece-rate units earned and any applicable piece rate if the
19 employee is paid on a piece-rate basis, (4) all deductions, provided that
20 all deductions made on written orders of the employee may be
21 aggregated and shown as one item, (5) net wages earned, (6) the
22 inclusive dates of the period for which the employee is paid, (7) the
23 name of the employee and his or her social security number, (8) the
24 name and address of the legal entity that is the employer, and (9) all
25 applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate by the
27 employee.

28 78. Labor Code § 226(e)(1) provides:

 An employee suffering injury as a result of a knowing and intentional
 failure by an employer to comply with subdivision (a) is entitled to
 recover the greater of all actual damages or fifty dollars (\$50) for the initial
 pay period in which a violation occurs and one hundred dollars (\$100)
 per employee for each violation in a subsequent pay period, not to exceed
 an aggregate penalty of four thousand dollars (\$4,000), and is entitled to
 an award of costs and reasonable attorney's fees.

 79. Labor Code § 226.3 provides:

 Any employer who violates subdivision (a) of Section 226 shall be
 subject to a civil penalty in the amount of two hundred fifty dollars
 (\$250) per employee per violation in an initial citation and one
 thousand dollars (\$1,000) per employee for each violation in a
 subsequent citation, for which the employer fails to provide the
 employee a wage deduction statement or fails to keep the records
 required in subdivision (a) of Section 226. The civil penalties provided
 for in this section are in addition to any other penalty provided by law.
 In enforcing this section, the Labor Commissioner shall take into
 consideration whether the violation was inadvertent, and in his or her
 discretion, may decide not to penalize an employer for a first violation
 when that violation was due to a clerical error or inadvertent mistake.

1 80. Labor Code § 558(a) and (c) provide:

2 (a) Any employer [] who violates, or causes to be violated, a section of
3 this chapter or any provisions regulating hours and days of work in any
4 order of the Industrial Welfare Commission shall be subject to a civil
5 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
6 each underpaid employee for each pay period for which the employee
7 was underpaid in addition to an amount sufficient to recover
8 underpaid wages. (2) For each subsequent violation, one hundred
9 dollars (\$100) for each underpaid employee for each pay period for
10 which the employee was underpaid in addition to an amount sufficient
11 to recover underpaid wages.... (c) The civil penalties provided for in
12 this section are in addition to any other civil or criminal penalty
13 provided by law.

14 81. Gomez seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by MasTec,
15 as alleged above, to timely pay all wages owed to Aggrieved Employees in compliance with Labor Code
16 §§ 201-202 in the amounts established by Labor Code § 203.

17 82. Gomez seeks such penalties as an alternative to the penalties available to individual litigants
18 under Labor Code § 203 where applicable, as prayed for herein.

19 83. Gomez also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
20 MasTec, alleged above, to provide Aggrieved Employees an accurate, itemized wage statement in
21 compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226(e).

22 84. Gomez also seeks civil penalties in the amounts described under Labor Code § 558
23 pursuant to Labor Code § 2699(a) for each pay period in which MasTec, as alleged above, failed to pay
24 Aggrieved Employees for all overtime wages and double wages owed.

25 85. Gomez also seeks civil penalties in the amounts described under Labor Code § for
26 MasTec's failure to furnish Aggrieved Employees' payroll records upon request.

27 86. Gomez also seeks civil penalties in the amounts described under Labor Code § 1198.5 for
28 MasTec's failure to furnish Aggrieved Employees' personnel records upon request.

 87. Pursuant to Labor Code § 2699.3(a)(1) and (2), Gomez provided the LWDA with notice
 of his intention to file this claim. (*See* Exhibit 1).

 88. More than sixty-five (65) calendar days have passed without notice from the LWDA.

1 89. As such, Gomez has satisfied the administrative prerequisites to commence this civil
2 action in compliance with § 2699.3(a).

3 90. Gomez seeks the aforementioned penalties on behalf of the State and other Aggrieved
4 Employees as set forth in Labor Code § 2699(g)(i).

5 91. MasTec is liable to Aggrieved Employees and the State of California for the civil penalties
6 set forth in this Complaint, with interest thereon.

7 92. Gomez is also entitled to an award of attorneys' fees and costs as set forth below.

8 93. Wherefore, Gomez and the Aggrieved Employees request relief as hereinafter provided.

9 **COUNT II**
10 **PENALTIES PURSUANT TO LABOR CODE § 2699(f)**

11 94. Gomez incorporates by reference the allegations in the preceding paragraphs.

12 95. Labor Code § 2699(f) provides:

13 For all provisions of this code except those for which a civil penalty is
14 specifically provided, there is established a civil penalty for a violation
15 of these provisions, as follows: ... (2) If, at the time of the alleged
violation, the person employs one or more employees, the civil penalty
is one hundred dollars (\$100) for each aggrieved employee per pay
period for the initial violation and two hundred dollars (\$200) for each
aggrieved employee per pay period for each subsequent violation.

16 96. Labor Code § 200 defines wages as "all amounts of labor performed by employees of every
17 description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission
18 basis or other method of calculation." All such wages are subject to California's overtime and double
19 time requirements, including those set forth above.

20 97. Labor Code § 204(a) provides that "[a]ll wages ... earned by any person in any employment
21 are due and payable twice during each calendar month[.]"

22 98. Labor Code § 510(a) provides as follows:

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

1 99. IWC Wage Order 16-2001(3)(A)(1) states that employees:

2 ...shall not be employed more than eight (8) hours in any workday or
3 more than 40 hours in any workweek unless the employee receives one
4 and one-half (1 ½) times such employee's regular rate of pay for all
5 hours worked over 40 hours in the workweek. Employment beyond
6 eight (8) hours in any workday or more than six (6) days in any
7 workweek is permissible provided the employee is compensated for
8 such overtime at not less than ... [o]ne and one-half (1½) times the
9 employee's regular rate of pay for all hours worked in excess of eight
10 (8) hours up to and including 12 hours in any workday, and for the first
11 eight (8) hours worked on the seventh (7th) consecutive day of work
12 in a workweek....

13 100. Labor Code § 1194(a) provides as follows:

14 Notwithstanding any agreement to work for a lesser wage, any
15 employee receiving less than the legal minimum wage or the legal
16 overtime compensation applicable to the employee is entitled to
17 recover in a civil action the unpaid balance of the full amount of this
18 minimum wage or overtime compensation, including interest thereon,
19 reasonable attorneys' fees, and costs of suit.

20 101. Labor Code § 1198 makes it unlawful for employers to employ employees under
21 conditions that violate relevant Wage Order(s).

22 102. To the extent that any violation alleged herein does not carry penalties under Labor Code
23 § 2699(a), Gomez seeks civil penalties pursuant to Labor Code § 2699(f) for Aggrieved Employees for
24 each pay period in which such employee was aggrieved, in the amounts established by Labor Code §
25 2699(f).

26 103. Gomez seeks civil penalties under Labor Code § 2699(f) for MasTec's violations of Labor
27 Code §§ 510, 1198, and 1198.5.

28 104. Pursuant to Labor Code § 2699.3(a)(1) and (2), Gomez has provided the LWDA with
notice of his intention to file this claim. (*See* Exhibit 1).

 105. More than sixty-five (65) calendar days have passed without notice from the LWDA.
Gomez satisfied the administrative prerequisites to commence this civil action in compliance with §
2699.3(a).

 106. Gomez seeks the aforementioned penalties on behalf of Aggrieved Employees and the
State of California as set forth in Labor Code § 2699(g)(i).

107. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

108. MasTec is liable to the State of California and Aggrieved Employees for the civil penalties set forth in this Complaint.

109. Gomez is also entitled to an award of attorneys' fees and costs.

110. Wherefore, Gomez and the Aggrieved Employees request relief as hereinafter provided.

RELIEF SOUGHT

WHEREFORE, Gomez, on behalf of the State of California and Aggrieved Employees, requests the following relief:

1. A declaratory judgment that MasTec's conduct violated the Labor Code as alleged herein;
2. An order awarding civil penalties against MasTec to the fullest extent provided for by PAGA;
3. An award of attorneys' fees, costs, and expenses as provided by the California Labor Code, including Labor Code § 2699(g)(1); California Code of Civil Procedure §1021.5; and/or any other applicable law;
4. Pre- and post-judgment interest on any amounts awarded at the highest applicable allowed by law; and
5. Such other and further relief as this Court deems just and proper.

1 Date: July 29, 2024

Respectfully submitted,

2 JOSEPHSON DUNLAP LLP

3 

4 William M. Hogg (SBN 338196)

5
6 *Counsel for Gomez, on Behalf of the State of
California and Aggrieved Employees*

EXHIBIT 1



May 22, 2024

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAfilings@dir.ca.gov

Re: Private Attorneys General Act of 2004 (“PAGA”) Notice

Employees: Nicholas Gomez

**Employer: MasTec, Inc., MasTec North America, Inc., MasTec West, LLC,
MasTec Network Solutions, Inc., MasTec Network Solutions, LLC
and Other Related Entities**

Dear PAGA Administrator:

Pursuant to California Labor Code § 2699.3(a)(1), Nicholas Gomez notifies the California Labor & Workforce Development Agency (“LWDA”) that he intends to seek civil penalties pursuant to California Labor Code § 2699(a) and (f) for violations of the following provisions of the California Labor Code by Mastec, Inc., MasTec North America, Inc., MasTec West, LLC, MasTec Network Solutions, Inc., MasTec Network Solutions, LLC (together, “MasTec”), as well as any unknown related entities involved in the alleged violations:

1. Failure to pay wages (LAB. CODE §§ 510, 1194, and 1194.5);
2. Failure to provide meal and rest periods and failure to provide compensation for missed meal and rest periods (LAB. CODE §§ 226.7 and 512);
3. Failure to provide timely and accurate itemized wage statements (LAB. CODE § 226);
4. Failure to provide employee records upon request (LAB. CODE §§ 226, 432 & 1198.5);
5. Failure to timely pay all wages following separation from employment or when due and payable (LAB. CODE §§ 201, 201.3, 202, 203, 204, and 227.3); and
6. Exceeding the maximum work hours (LAB. CODE § 1198).

Mr. Gomez, who has been aggrieved by MasTec’s violative pay practices, intend to bring a civil action against MasTec pursuant to PAGA on behalf of himself, the State of California, and other Aggrieved Employees. Specifically, the Aggrieved Employees at issue here are all of MasTec’s current

and former non-exempt tower foreman, tower technicians, and other employees with similar job duties, in California during the relevant statutory period.

Background of MasTec:

MasTec, Inc., MasTec North America, Inc., and/or MasTec West, LLC are comprised of a family of divisions/companies that provide services for complex infrastructure projects across the country, including in California.

MasTec Network Solutions, Inc. and/or MasTec Network Solutions, LLC is a division of MasTec, Inc. MasTec Network Solutions provides comprehensive services and turnkey solutions for telecommunications operators. MasTec Network Solutions provides planning, design, SAQ, construction, material management, integration & RAN Optimization services for common wireless internet bandwidths such as 5G, LTE, private LTE, and small cell phone network providers.

Background of Aggrieved Employees:

Mr. Gomez was employed by MasTec from approximately July 2022 to November 2023 as a tower foreman in and around Sacramento, California. Mr. Gomez's job as a tower foreman required him to work outside on communications towers for long hours. MasTec classified Mr. Gomez as non-exempt from overtime and paid Mr. Gomez on an hourly rate basis of \$37 per hour, plus a per diem of approximately \$50 per day. On average, Mr. Gomez typically worked 4-5 days per week and 10 hours per day during his employment with MasTec.

The Aggrieved Employees, like Mr. Gomez, are employed by MasTec under job titles including (but not limited to) tower technicians, tower foremen, and other similar titles. The Aggrieved Employees work on MasTec's communications tower projects in California, and are classified as non-exempt employees.

Allegations:

MasTec failed to pay Mr. Gomez and the Aggrieved Employees for all hours worked, and instead instructs Mr. Gomez and the Aggrieved Employees to forego tracking their hours worked before they clock in for the day and after they clock out for the day. As a result of MasTec's conduct, Mr. Gomez and the Aggrieved Employees are not paid all straight time wages owed, nor are they paid all overtime and double time wages owed during such "off-the-clock" work.

MasTec further fails to provide compliant meal and rest periods to Mr. Gomez and the Aggrieved Employees who, by the nature of their work climbing communications towers, are not able to be fully relieved of work duties during such "break" times. MasTec also fails to, and cannot, ensure Mr. Gomez and the Aggrieved Employees receive meal or rest periods in a timely fashion as required by the Labor Code. This "straight time for overtime" pay scheme results in PSG failing to pay Mr. Aguirre, Ms. Pankaskie, and the Aggrieved Employees all wages owed, including all overtime pay and/or double time pay owed, in violation of the California Labor Code.

MasTec's policies, practices, and procedures cause Mr. Gomez and the Aggrieved Employees to systematically miss their meal and/or rest periods. Yet, MasTec does not provide Mr. Gomez and the Aggrieved Employees with premium payments for such non-compliant meal and rest periods. Mr. Gomez and the Aggrieved Employees are frequently denied meal and/or rest periods for various reasons, including that MasTec does not authorize, permit, and/or make available timely meal and/or rest periods to Mr. Gomez and the Aggrieved Employees, and/or Mr. Gomez and the Aggrieved Employees are often too busy with work during the day to have time to take a bona fide meal and/or rest periods. MasTec also does not monitor, take steps, or otherwise ensure meal and rest periods are made available to Mr. Gomez and the Aggrieved Employees. Further, when Mr. Gomez and the Aggrieved Employees do attempt to take a meal period, they are often short, subject to interruption, and/or untimely, *i.e.*, after the end of the 5th hour of work. As a result, Mr. Gomez and the Aggrieved Employees are not provided with duty-free, uninterrupted, and timely 30-minute meal periods by the end of the 5th hour of work.

Additionally, Mr. Gomez and the Aggrieved Employees are not provided with uninterrupted, 10-minute rest periods, during which they should be completely relieved of any duty and/or control by MasTec, by the end of the 4th hour of work, and again, by the end of the 8th hour of work.

Further, on days when Mr. Gomez and the Aggrieved Employees work longer shifts of 10 hours or more, Mr. Gomez and the Aggrieved Employees are not authorized to take a 2nd meal period before the 10th hour of work. As a result, Mr. Gomez and the Aggrieved Employees are not provided with duty-free, uninterrupted, and timely 30-minute meal periods by the end of the 10th hour of work.

On April 1, 2024, Mr. Gomez submitted a formal written request to MasTec (by and through his counsel) requesting his payroll records pursuant to Labor Code § 226. Such request was delivered to MasTec on April 4, 2024. More than 21 days passed, and MasTec failed to furnish Mr. Gomez with his requested payroll records.

Mr. Gomez's written request also sought copies of his personnel file pursuant to Labor Code § 1198.5 and of any instruments relating to his obtaining or holding of employment pursuant to Labor Code § 432. More than 30 days passed from the time MasTec received the request for such personnel records, and MasTec failed to furnish Mr. Gomez with the requested personnel records.

As outlined herein, Mr. Gomez and the Aggrieved Employees are not compensated for all hours worked and are not paid premium payments for missed meal and rest periods. MasTec's violative policies and practices results in non-compliant wage statements. Among other things, the wage statements MasTec provides to Mr. Gomez and Aggrieved Employees fail to accurately reflect the total hours worked, gross wages earned, net wages earned, and/or premium pay owed. Therefore, Mr. Gomez and the Aggrieved Employees do not receive accurate, itemized wage statements as required under the Labor Code.

As a consequence of MasTec's failure to pay all wages (including straight time wages, overtime wages, double time wages, and premium pay) owed, Mr. Gomez and the Aggrieved Employees do not receive all wages owed during employment. As such, Mr. Gomez and the Aggrieved Employees who

are MasTec's former employees did not receive all wages owed following separation from employment in violation of the Labor Code.

Mr. Gomez is represented by Josephson Dunlap, LLP, a law firm based in Houston, Texas. Josephson Dunlap, LLP has extensive experience in the successful litigation and resolution of employment and representative actions around the country. A description of the work, mission, and credentials of the firms can be found at www.mybackwages.com. Mr. Gomez and his counsel are committed to zealously pursuing redress on behalf of the State of California and all other similarly situated employees for the violations and civil penalties set forth above.

If I can be of any assistance, please do not hesitate to contact me. We would appreciate hearing from the LWDA at its earliest convenience, and we thank you for your careful consideration of this matter.

Sincerely,



William M. Hogg (SBN 338196)

JOSEPHSON DUNLAP LLP

11 Greenway Plaza, Suite 3050

Houston, Texas 77046

Tel: (713) 352-1100

Fax: (713) 352-3300

whogg@mybackwages.com

CC via Certified Mail:

MasTec, Inc.

c/o: CSC - Lawyers Incorporating Service

2710 Gateway Oaks Drive, Suite 150N

Sacramento, California 95833

MasTec North America, Inc.

c/o: CSC - Lawyers Incorporating Service

2710 Gateway Oaks Drive, Suite 150N

Sacramento, California 95833

MasTec West, LLC

c/o: CSC - Lawyers Incorporating Service

2710 Gateway Oaks Drive, Suite 150N

Sacramento, California 95833

MasTec Network Solutions, LLC

c/o: CSC - Lawyers Incorporating Service

2710 Gateway Oaks Drive, Suite 150N

Sacramento, California 95833

Attn: PAGA Administrator
Labor and Workforce Development Agency
May 22, 2024
Page 5 of 5

MasTec Network Solutions, Inc.
c/o: CSC - Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

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Total Postage and Fees

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Street and Apt. No., or PO Box No.
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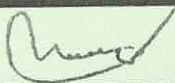
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Sacramento, CA 95833

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  ☐ Agent ☒ Addressee	
1. Article Addressed to: MasTec Network Solutions, LLC c/o: CSC - Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, California 95833		B. Received by (Printed Name) <u>SHARIF MOHAMMED</u> Date of Delivery <u>5/28/24</u> CSC SACRAMENTO A/A/O CSC	
2. Article Number (Transfer from service label) 9590 9402 7584 2098 2823 24		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No MAY 28 2024	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☒ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
47		☐ Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
MasTec West, LLC
c/o: CSC - Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833



9590 9402 7584 2098 2823 00

2. Article Number (Transfer from service label)

9589 0710 5270 0156 4752 30

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name) SHAMEEL MOHAMMED Date of Delivery

A/A/O CSC

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☒ Registered Mail Restricted Delivery

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Mail

Mail Restricted Delivery

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Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MasTec, Inc.

c/o: CSC - Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833



9590 9402 7584 2098 2823 48

2. Article Number (Transfer from service label)

9589 0710 5270 0156 4752 16

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

SHAMEEL MOHAMMED

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☒ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail

Mail Restricted Delivery

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Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
MasTec North America, Inc.
c/o: CSC - Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833



9590 9402 7584 2098 2823 55

2. Article Number (Transfer from service label)

9589 0710 5270 0156 4752 23

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

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1. Article Addressed to:
MasTec Network Solutions, Inc.
c/o: CSC - Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833



9590 9402 7584 2098 2823 31

2. Article Number (Transfer from service label)

9589 0710 5270 0156 4752 54

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

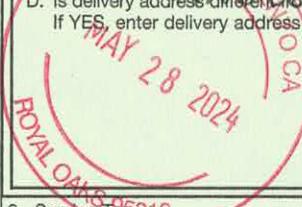
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

SHAMEEL MOHAMMED

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No



3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

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☐ Signature Confirmation™

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Mail

Mail Restricted Delivery (00)

Domestic Return Receipt

EXHIBIT 2



WILLIAM HOGG
ATTORNEY

April 1, 2024

Via USPS Priority Mail

Attn: Human Resources
MasTec Network Solutions
3443 Airport Road
Sacramento, California 95834

Re: Request for Nicholas Gomez's Personnel File and Other Records

Dear Human Resources Representative:

Please take notice that this letter will serve as a request for our client's payroll and personnel records maintained by your company. We are requesting complete copies of the following records for Nicholas Gomez:

- Pursuant to California Labor Code § 1198.5—personnel files and records relating to our client's performance or to any grievance concerning our client.
- Pursuant to California Labor Code § 432—any instrument signed by our client relating to the obtaining or holding of employment. This request specifically includes any and all purported arbitration agreements.
- Pursuant to California Labor Code § 226—any and all payroll records relating to our client.

Please provide the aforementioned copies of employee records as soon as possible, but no later than twenty-one (21) days for the payroll records, and thirty (30) days for all other records mentioned. **Failure to furnish copies of these records within those time limits may subject you to statutory penalties.** Thank you for your prompt attention to this matter.

Sincerely,

William M. Hogg
Attorney at Law
JOSEPHSON DUNLAP LLP
11 Greenway Plaza, Suite 3050
Houston, Texas 77046
whogg@mybackwages.com

11 GREENWAY PLAZA, SUITE 3050 | HOUSTON, TX 77046
P 713.352.1100 | F 713.352.3300

WWW.MYBACKWAGES.COM