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David W. Slayton,
Executive Officer/Clerk of Court,
By C. Cervantes, Deputy Clerk

Attorney for Plaintiff
EMILIO CASTENEDA DELGADO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

EMILIO CASTANEDA DELGADO, as an
aggrieved employee and private attorney general,

Plaintiff,

vs.

PYE-BARKER FIRE & SAFETY, LLC, a business;
and DOES 1-20,

Defendants.

Case No.: **24STCV26063**

**COMPLAINT FOR REPRESENTATIVE
ENFORCEMENT ACTION UNDER THE
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, CALIFORNIA
LABOR CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED

1 Plaintiff EMILIO CASTANEDA DELGADO, as an aggrieved employee and private attorney
2 general pursuant to the Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698, *et*
3 *seq.*, “PAGA”), based upon facts that either have evidentiary support or are likely to have evidentiary
4 support after a reasonable opportunity for further investigation and discovery, alleges as follows:

5 **PARTIES**

6 1. Plaintiff EMILIO CASTANEDA DELGADO (“Plaintiff”) is, and at all relevant times was,
7 an individual and a resident of California.

8 2. Defendant PYE-BARKER FIRE & SAFETY, LLC (“PYE-BARKER”) is, and at all
9 relevant times was, a business registered to do business in the State of California.

10 3. PYE-BARKER, and Defendants DOES 1-10 are collectively referred to as “ENTITY
11 DEFENDANTS”.

12 4. Plaintiff is informed and believes and thereon alleges that ENTITY DEFENDANTS are
13 businesses that operate within Los Angeles County and who have offices in California.

14 5. From approximately March 2023 to February 2024, Plaintiff was employed by ENTITY
15 DEFENDANTS as a non-exempt employee.

16 6. Plaintiff is informed and believes and thereon alleges that ENTITY DEFENDANTS,
17 directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions
18 of employment of Plaintiff and the Aggrieved Employees (as defined in paragraph 11, below) so as to
19 make each of said Defendants employers jointly liable under the statutory provisions set forth herein.

20 7. Plaintiff is informed and believes, and thereon alleges that at all times relevant hereto,
21 Defendants DOES 11-20 each are, and at all relevant times were, a resident of California and a decision
22 maker, managing agent and/or owner of ENTITY DEFENDANTS. In that capacity, Defendants DOES
23 11-20 enforced and contributed to and/or influenced ENTITY DEFENDANTS’ policies and practices that
24 resulted in the various Labor Code violations alleged herein. Plaintiff further alleges on information and
25 belief that Defendants DOES 11-20 caused and/or ratified the Labor Code violations subject of this
26 complaint, so as to make them each individually liable pursuant to Labor Code Sections 558 and 558.1

27 8. Defendants DOES 1-20, inclusive, are sued herein under fictitious names. Their true names
28 and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff

1 will amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and
2 believes and thereon alleges that each of the fictitiously named Defendants are responsible in some manner
3 for the occurrences herein alleged, and that Labor Code violations alleged herein by Plaintiff were
4 proximately caused by those Defendants. Each reference in this complaint to “Defendant,” “Defendants,”
5 or a specifically named Defendant refers also to all Defendants sued under fictitious names.

6 9. Plaintiff is informed and believes, and based thereon alleges that at all times material
7 hereto, each of Defendants named herein (including DOES 1-20) was/were the ostensible agent,
8 employee, alter ego and/or joint venture of, or working in concert with each of the other co-Defendants
9 and was acting within the course and scope of such agency, employment, joint venture, or concerted
10 activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
11 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
12 Defendant.

13 10. Plaintiff is informed and believes and based thereon alleges that each of the Defendants
14 is liable for claims asserted in this action under legal theories and doctrines including but not limited
15 to (1) joint employer; (2) integrated enterprise; (3) agency; (4) alter ego; (5) equitable estoppel; and/or
16 (6) “totality of working test.”

17 **JURISDICTION AND VENUE**

18 11. Plaintiff brings this action as a representative action on behalf of himself, the State of
19 California, and other current and former employees of ENTITY DEFENDANTS against whom one or
20 more of the alleged violations was committed (hereinafter collectively referred to as the “Aggrieved
21 Employees”) pursuant to California Labor Code sections 2698, *et seq.*

22 12. This Court has jurisdiction over this matter under the Court’s general powers granted by
23 statutory law and the California Constitution.

24 13. This Court has jurisdiction over all Defendants because, upon information and belief,
25 Defendants are citizens and residents of California, regularly conduct business in California, have
26 sufficient minimum contacts in California, and/or otherwise intentionally avail themselves of the
27 California market so as to render the exercise of jurisdiction over them by California courts consistent
28 with traditional notions of fair play and substantial justice. Further, no federal question is at issue because

1 the claims asserted herein are based solely on California law.

2 14. Venue is proper in Los Angeles County because some or all of the claims alleged herein
3 arose in the County of Los Angeles. Further, upon information and belief, Defendants maintain offices,
4 have agents, employ individuals, and/or transact business in the State of California, County of Los
5 Angeles.

6 **STATEMENT OF FACTS**

7 15. Plaintiff worked for the ENTITY DEFENDANTS as a field laborer from approximately
8 March 2023 to February 2024.

9 16. During the time period involved in this case, Plaintiff and other Aggrieved Employees were
10 assigned by ENTITY DEFENDANTS to work at several different job locations in California, including
11 job sites in Los Angeles County, California.

12 17. During the time period involved in this case, ENTITY DEFENDANTS implemented
13 policies and practices that resulted in the failure to pay Plaintiff and other Aggrieved Employee all wages
14 owed for all time worked, including minimum wages and overtime hours. Such policies and practices
15 included, but were not limited to: improperly rounding the time records of Plaintiff and other Aggrieved
16 Employees in a fashion that resulted in the failure to fully pay for all time actually worked, requiring
17 Plaintiff and other Aggrieved Employees to perform off the clock, and paying Plaintiff and other
18 Aggrieved Employees based on their scheduled hours instead of their actual time worked.

19 18. During the time period involved in this case, ENTITY DEFENDANTS did not provide
20 Plaintiff and other Aggrieved Employees with uninterrupted, duty-free rest periods and/or meal periods
21 when they worked the qualifying amount of hours on their shifts. ENTITY DEFENDANTS further failed
22 to pay Plaintiff and other Aggrieved Employees rest periods and meal period premiums when compliant
23 rest and meal breaks were not provided.

24 19. During the time period involved in this case, Plaintiff and Aggrieved Employees were
25 required to incur expenses in the discharge of their duties for ENTITY DEFENDANTS, the purchase of
26 work gloves, safety vests, and eye protection. ENTITY DEFENDANTS failed to fully reimburse Plaintiff
27 and Aggrieved Employees for these costs.

28 20. During the time period involved in this case, ENTITY DEFENDANTS failed to maintain

records that accurately reflect all hours actually worked by Plaintiff and other Aggrieved Employees.

21. During the time period involved in this case, ENTITY DEFENDANTS failed to pay Plaintiff and other Aggrieved Employees wages for all hours worked.

22. During the time period involved in this case, ENTITY DEFENDANTS failed to timely pay all wages owed to Plaintiff and other Aggrieved Employees during and upon termination of their employment.

23. During the time period involved in this case, ENTITY DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees with wage statements that accurately itemized their total hours actually worked and the correct amount of wages actually owed for all hours worked.

PAGA ALLEGATIONS

24. At all times set forth herein, PAGA was applicable to Plaintiff's employment by ENTITY DEFENDANTS.

25. PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA") for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of themselves and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

26. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

27. Plaintiff was employed by ENTITY DEFENDANTS and the alleged violations were committed against him during his time of employment. PLAINTIFF and the other employees are therefore "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are current or former employees of ENTITY DEFENDANTS and one or more of the alleged violations were committed against them.

28. Pursuant to Labor Code § 2699.3, an aggrieved employee may commence a civil action arising under Labor Code § 2699 after the following requirements have been met:

- 1 a. The aggrieved employee shall give written notice (hereinafter “Notice”) by certified
2 mail to the Labor and Workforce Development Agency (hereinafter “Agency”) and
3 the employer of the specific provisions of the California Labor Code alleged to have
4 been violated, including the facts and theories to support the alleged violation.
- 5 b. The agency shall notify the employer and the aggrieved employee or representative
6 by certified mail that it DOES not intend to investigate the alleged violation within
7 up to 65 calendar days of the postmark date of the notice received pursuant to
8 paragraph (1). Upon receipt of that notice or if no notice is provided within 65
9 calendar days of the postmark date of the notice given pursuant to paragraph (1),
10 the aggrieved employee may commence a civil action pursuant to Section 2699.

11 29. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §
12 2699.3. On or about May 20, 2024, Plaintiff, pursuant to Labor Code § 2699, *et seq.*, through his attorney,
13 sent a letter via Certified Mail Return Receipt Requested to PYE-BARKER, which was also submitted
14 electronically to the Labor and Workforce Development Agency (“LWDA”). As of the filing of this
15 Complaint, more than 65 days have passed from the initial letter and no response was received by
16 Plaintiff’s counsel from the LWDA.

17 30. Accordingly, the administrative prerequisites under California Labor Code section
18 2699.3(a) to recover civil penalties against Defendants have been fully exhausted and Plaintiff may
19 commence a civil action to recover penalties against Defendants, in addition to other remedies for
20 violations of California Labor Code §§ 201, 202, 203, 204, 216, 225.5, 226, 226.2, 226.3, 226.7, 510, 512,
21 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699, *et seq.*

22 **FIRST CAUSE OF ACTION**

23 Violation of Labor Code Private Attorneys General Act of 2004
24 (California Labor Code §§ 2698, *et seq.*)
25 By Plaintiff against All Defendants

26 31. Plaintiff realleges and incorporates the other paragraphs of this Complaint as if fully set
27 forth herein.

28 32. Plaintiff brings his first cause action as a representative action on behalf of himself, other
Aggrieved Employees, and the State of California in his capacity as a private attorney general pursuant to

1 PAGA.

2 33. PAGA expressly provides for a private right of action to recover civil penalties for
3 violations of the Labor Code as follows: “Notwithstanding any other provision of law, any provision of
4 this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
5 Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees,
6 for a violation of this code, may, as an alternative, be recovered through a civil action brought by an
7 aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the
8 procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a).

9 34. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies,
10 or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the
11 same discretion, subject to the same limitations and conditions, to assess a civil penalty.

12 35. Plaintiffs and the other hourly-paid, non-exempt employees are “Aggrieved Employees” as
13 defined by California Labor Code section 2699(c) in that they are all current or former employees of
14 ENTITY DEFENDANTS, and one or more of the alleged violations were committed against them.

15 36. As set forth in detail above and below, during all times relevant to this Action, ENTITY
16 DEFENDANTS have routinely subjected Plaintiff and the Aggrieved Employees to violations of
17 California Labor Codes by:

- 18 a. Failing to pay Plaintiff and the Aggrieved Employees all earned minimum wage
19 compensation in violation of Labor Code §§ 1194, 1197, and 1198 *et seq.*
- 20 b. Failing to pay Plaintiff and the Aggrieved Employees all earned overtime compensation in
21 violation of Labor Code §§ 510, 1194, and 1198 *et seq.*
- 22 c. Failing to provide legally required meal periods to Plaintiff and the Aggrieved Employees,
23 and failing to pay Plaintiff and the Aggrieved Employees an additional hour of premium
24 pay for meal period violations in violation of Labor Code §§ 226.7 and 512.
- 25 d. Failing to provide authorize and permit Plaintiff and the Aggrieved Employees to take duty-
26 free rest periods, and failing to pay Plaintiff and the Aggrieved Employees an additional
27 hour of premium pay for rest period violations in violation of Labor Code § 226.7.
- 28 e. Failing to timely pay Plaintiff and the Aggrieved Employees all wages at end of their

employment in violation of Labor Code §§ 201 and 202.

f. Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed during employment in violation of Labor Code § 204.

g. Failing to furnish Plaintiff and the Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226.

h. Failing to maintain accurate records relating to Plaintiff and the Aggrieved Employees' work periods, meal periods, total daily hours, hours per pay period, and total wages and compensation, in violation of Labor Code § 1174(d) and the applicable IWC Wage Order.

i. Failing to reimburse Plaintiff and the Aggrieved Employees for necessary business-related expenses in violation of Labor Code §§ 2800 and 2802.

37. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks the assessment and collection of all available civil penalties for Plaintiff and all Aggrieved Employees, and the State of California against ENTITY DEFENDANTS for violations of Labor Code sections set forth herein, including penalties under California Labor Code §§ 2699, 210, 225.5, 226, 226.3, 558, 1174.5, and 1197.1, penalties under the applicable IWC Wage Order, and any and all additional penalties and remedies as provided by the California Labor Code and/or other statutes.

38. Pursuant to California Labor Code section 2699(i), civil penalties recovered by Aggrieved Employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five (25%) to the Aggrieved Employees.

39. Plaintiff was compelled to retain the services of counsel to file this court action, and to assess and collect the civil penalties owed by ENTITY DEFENDANTS. Plaintiff therefore seeks an award of reasonable attorney's fees and costs pursuant to Labor Code §§ 210, 218.5, 2699(g)(1), and any other applicable statute.

40. The PAGA claims are also brought against and DOES 11-20 pursuant to provisions of the California Labor Code including § 558.1, which permits liability of persons who violate or cause to be violated the Labor Code and IWC regulations (including penalties in the amount of underpaid wages).

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, based on the foregoing, Plaintiff prays for relief against Defendants, and each of
3 them, as follows:

4 1. For imposition of civil penalties including but not limited to those pursuant to California
5 Labor Code §§ 2699, 210, 226, 226.3, 558, 1174.5, 1197.1, and all other penalties allowed by the
6 California Labor Code, PAGA, and/or other applicable statutes;

7 2. For statutory attorney's fees and costs; and,

8 3. For such other and further relief as the Court may deem just and proper.

9 Dated: October 7, 2024

LAW OFFICE OF KELLY Y. CHEN

10
11 /s/Kelly Y. Chen
12 Kelly Y. Chen
13 Attorney for Plaintiff, Emilio Castaneda Delgado
14

15 **DEMAND FOR JURY TRIAL**

16
17 Plaintiff hereby demands a trial by jury for each and every claim for which she has a right to
18 jury trial.
19

20 Dated: October 7, 2024

LAW OFFICE OF KELLY Y. CHEN

21
22 /s/Kelly Y. Chen
23 Kelly Y. Chen
24 Attorney for Plaintiff, Emilio Castaneda Delgado
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