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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ANGEL ESQUIVEL, an individual, on behalf
of himself and others similarly situated

PLAINTIFF,

v.

TTI, INC.; and DOES 1 thru 50, inclusive,

DEFENDANT.

CASE NO. 30-2024-01400610-CU-OE-CXC

**[Amended as a matter of right, pursuant to
Labor Code § 2699.3(a)(2)(C)]**

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7
2. Failure to Reimburse Expenses Pursuant to Labor Code § 2802
3. Violation of Labor Code § 226(a)
4. Penalties Pursuant to Labor Code § 203
5. Violation of Business & Professions Code § 17200
6. Penalties Pursuant to Labor Code §2699, et seq.

1 Plaintiff ANGEL ESQUIVEL, an individual, on behalf of himself, all others similarly
2 situated, and on behalf of the people of the State of California and as an “aggrieved employee”
3 under Labor Code Private Attorneys General Act of 2004, §2699, *et seq.* (hereafter “PAGA”),
4 complains of Defendant TTI, INC. (“Defendant”) and each of them, as follows:

5 **I.**

6 **INTRODUCTION**

7 1. This is a Class and Representative Action, pursuant to Code of Civil Procedure §
8 382, on behalf of Plaintiff and a Proposed Class defined as:

9 All persons who are employed or have been employed as an hourly
10 or salary non-exempt employee by TTI, Inc., in the State of
11 California since four (4) years prior to the filing of this action to the
12 present and continuing to the present plus any additional time during
13 which the statutes of limitation for the causes of action herein were
tollled pursuant to ‘Emergency Rule 9 of the California Rules of
Court, the ‘Emergency Rules Related to COVID-19’ (“Proposed
Class”)

14 2. Any limitations period referenced in this complaint is extended pursuant to
15 Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the
16 California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of
17 limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020
18 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action
19 that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.”] Any reference to the
20 relevant time period or statute of limitations referenced in this complaint is extended into the past
21 by the number of days in which this tolling was in effect.

22 3. For at least four (4) years prior to the filing of this action and continuing to the
23 present, Defendant has had a consistent policy of failing to inform Proposed Class Members of
24 their right to take rest periods by way of a lawful policy and of failing to provide Proposed Class
25 Members within the State of California, including Plaintiff, rest periods of at least ten (10) minutes
26 per four (4) hours worked or major fraction thereof and failing to pay such employees one (1) hour
27 of pay at the employee’s regular rate of compensation for each workday that the rest period was
28 not provided, as required by California state wage and hour laws. Further, Defendant also had a

1 consistent policy of paying rest period premiums at the base rate and not the blended rate in
2 violation of *Ferra v. Loews Hollywood Hotel, LLC* and Labor Code § 226.7.

3 4. For at least four (4) years prior to the filing of this action and continuing to the
4 present, Defendant has failed to reimburse Plaintiff and the Proposed Class for their usage of their
5 personal cell phones and office equipment for work. Plaintiff and the Proposed Class are required
6 to work without being reimbursed for their business expenses.

7 5. For at least one (1) year prior to the filing of this action continuing to the present,
8 Defendant has failed to comply with Industrial Welfare Commission (“IWC”) Wage Order 1-
9 2001 and Labor Code § 226(a) by failing to provide Plaintiff and the Proposed Class accurate
10 itemized wage statements showing in writing the total hours worked and all applicable hourly rates
11 in effect during the pay period and the corresponding number of hours worked at each hourly rate
12 by Plaintiff and the members of the Proposed Class.

13 6. For at least three (3) years prior to the filing of this action continuing to the present,
14 Defendant has failed to pay all wages due at the time of termination or resignation to Plaintiff and
15 the Proposed Class.

16 7. Plaintiff, on behalf of himself and all Proposed Class Members brings this action
17 pursuant to Labor Code §§ 203, 226(a), 226.7, and 2802; Wage Order 1-2001; and California
18 Code of Regulations, Title 8, Section 11010, rest period penalties, unreimbursed expenses,
19 accurate itemized wage statements, other penalties, injunctive and other equitable relief, and
20 reasonable attorneys’ fees and costs.

21 8. Plaintiff, on behalf of himself and all Proposed Class Members, pursuant to
22 Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and
23 disgorgement of all benefits Defendant enjoyed from its unlawful conduct as described herein.

24 9. For at least one (1) year prior to the date of the letter sent to the Labor Workforce
25 and Development Agency (“LWDA”) and Defendant giving notice of the claims pursuant to
26 PAGA and continuing to the present, Defendant has violated Labor Code provisions, as detailed
27 below, giving rise to a claim pursuant to PAGA. Plaintiff, on behalf of himself and all aggrieved
28 employees presently or formerly employed by Defendant during the liability period as defined in

his PAGA notice letter (*see* Exhibit “1”), brings this representative action pursuant to Labor Code §2699, et seq. seeking penalties for Defendant’s failure to provide rest periods, failure to provide accurate itemized wage statements, failure to provide proper reimbursements, and failure to pay all wages due at the time of termination.

II.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds \$35,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

11. Upon information and belief the value of the claims of the Proposed Class, in the aggregate, is less than \$5,000,000.00.

12. This Court has personal jurisdiction over Defendant because Defendant has caused injuries in the County of Orange and the State of California through their acts, and by their violation of the California Labor Code, California state common law, and California Business & Professions Code § 17200, *et seq.*

13. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendant operates within California and does business within County of Orange. The unlawful acts alleged herein have a direct effect on Plaintiff and all Proposed Class Members within the State of California and the county of Orange.

14. This case should be classified as complex according to Rule 3.400 of the California Rules of Court, and assigned to a complex litigation judge and department, as it will involve substantial documentary evidence, a large number of witnesses, and is likely to involve extensive motion practice raising difficult or novel issues that will be time-consuming to resolve and would require substantial post judgment judicial supervision.

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III.
PARTIES

A. PLAINTIFF

15. Plaintiff ANGEL ESQUIVEL is a resident of California.

16. Plaintiff and all Proposed Class Members, were regularly required to:

a. Work without being provided rest periods;

b. Work without being reimbursed for their out of pocket business expenses;

and,

c. Work without being provided accurate itemized wage statements.

17. Defendant willfully failed to compensate Plaintiff and all Proposed Class Members for wages at the termination of their employment with Defendant.

18. As a result of this conduct, Defendant has engaged in unfair competition and unlawful business practices.

19. Plaintiff and all aggrieved employees as defined in his notice letter to the LWDA are “aggrieved employees” within the meaning of Labor Code § 2699, *et seq.* (see Labor Code §2699(c).)

B. DEFENDANTS

20. Defendant TTI, INC. is believed to be a Texas corporation operating within the State of California. Defendant’s corporate address is believed to be 2441 North East Parkway, Fort Worth, TX 76106. Upon information and belief, Defendant employed Plaintiff and similarly situated persons as hourly and salary non-exempt employees within California. Defendant has done and does business throughout the State of California.

21. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and

capacities of the Defendants designated hereinafter as DOES when such identities become known.

22. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and the Proposed Class Members.

23. Furthermore, Defendants acted in all respects as the employers or joint employers of the Proposed Class. Defendants, and each of them, exercised control over the wages, hours or working conditions of the Proposed Class, or suffered or permitted the Proposed Class to work, or engaged, thereby creating a common law employment relationship, with the Proposed Class. Therefore, Defendants, and each of them, employed or jointly employed the Proposed Class.

IV.

FACTUAL BACKGROUND

24. Plaintiff and the Proposed Class are, and at all times pertinent hereto, have been classified as non-exempt employees by Defendant. Defendant hires employees who work as hourly employees who are paid on an hourly basis. Additionally, Defendant hires employees who work as non-exempt employees and are paid by salary.

25. Upon information and belief, Plaintiff and the Proposed Class are covered by California Industrial Welfare Commission Occupational Wage Order No. 1-2001 (Title 8 Cal. Code of Regs. § 11010).

26. On a regular and consistent basis, Plaintiff and the Proposed Class have been required to work four hour increments (or major fractions thereof) without being provided with a ten (10) minute rest period. Defendant also failed to pay such employees one (1) hour of pay at the employee's regular rate of compensation for each work day that the compliant rest period was not provided, as required by California state wage and hour laws. Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate, when rest period premiums are provided, as required. Additionally, Defendant failed to inform Plaintiff and the Proposed Class of their right to take rest periods by way of a lawful policy.

27. On a regular and consistent basis, Plaintiff and the Proposed Class have not been properly reimbursed expenses associated with the cost of equipment necessary for the completion of their job duties. The work performed by Plaintiff and the Proposed Class necessitated the use of a computer, monitor, desk and keyboard. This equipment was not provided by Defendant. As a result, Plaintiff and the Proposed Class purchased this equipment and Defendant never reimbursed them for the cost of approximately \$200 per month.

28. Defendant has failed to comply with Industrial Welfare Commission (“IWC”) Wage Order 1-2001(7) and Labor Code §226(a) by failing to maintain time records showing total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee for Plaintiff and the Proposed Class.

29. Defendant willfully failed to pay wages and compensation, when Plaintiff and all Proposed Class Members quit or were discharged. This failure was willful, without legal justification, and interfered with Plaintiff's and Class Members' rights.

30. As a result of the acts alleged herein, Defendant violated Labor Code §2699, *et seq.*

V.

CLASS ACTION ALLEGATIONS

31. Plaintiff brings this action on behalf of himself and all others similarly situated as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent a proposed class composed of and defined as follows:

All persons who are employed or have been employed as an hourly or salary non-exempt employee by TTI, Inc., in the State of California since four (4) years prior to the filing of this action to the present and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to ‘Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’ (“Proposed Class”)

32. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court to amend or modify the class description with greater specificity, by division into subclasses, or by limitation to particular issues.

1 33. This action has been brought and may properly be maintained as a class action
2 under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined
3 community of interest in the litigation and the Proposed Classes are easily ascertainable.

4 **A. NUMEROSITY**

5 34. The potential members of the Proposed Class as defined are so numerous that
6 joinder of all the members of the Proposed Class is impracticable. While the precise number of
7 proposed Class Members has not been determined at this time, Plaintiff is informed and believes
8 that Defendant currently employ, and during the relevant time periods employed at most 100
9 members of the Proposed Class.

10 35. Plaintiff alleges that Defendant's employment records would provide information
11 as to the number and location of all Proposed Class Members. Joinder of all members of the
12 Proposed Class is not practicable.

13 **B. COMMONALITY**

14 36. There are questions of law and fact common to the Proposed Class that predominate
15 over any questions affecting only individual Proposed Class Members. These common questions
16 of law and fact include, without limitation:

17 a. Whether Defendant violated Labor Code § 226.7 and IWC Wage Order 1
18 -2001 or other applicable IWC Wage Orders, by failing to inform Plaintiff and the Proposed Class
19 of their right to take rest periods and failing to provide required rest periods throughout the term
20 of employment and failing to compensate said employees one (1) hours wages in lieu of rest
21 periods;

22 b. Whether Defendants violated Labor Code § 2802 and/or Wage Order 1-
23 2001 or other applicable IWC Wage Orders by failing to reimburse out of pocket expenses for the
24 cost of equipment;

25 c. Whether Defendants violated Labor Code § 226(a) and Wage Order 1-2001
26 or other applicable IWC Wage Orders, and Cal. Code Regs., Title 8, Section 11010 by failing to
27 furnish accurate itemized wage statements that accurately show total hours worked, all applicable
28 hourly rates in effect during the pay period and the corresponding number of hours worked at each

hourly rate, for Plaintiff and the members of the Proposed Class;

d. Whether Defendant violated §§ 201-203 of the Labor Code by failing to pay compensation due and owing at the time that any Proposed Class Member's employment with Defendant terminated;

e. Whether Defendant violated § 17200, *et seq.* of the Business & Professions Code by engaging in the acts previously alleged; and

f. Whether Plaintiff and the members of the Proposed Class are entitled to equitable relief pursuant to Business & Professions Code § 17200, *et seq.*

g. Whether Defendant violated Labor Code § 2699, *et seq.* by engaging in the acts alleged herein.

C. TYPICALITY

37. The claims of Plaintiff are typical of the claims of the Proposed Class. Plaintiff and all members of the Proposed Class sustained injuries and damages arising out of and caused by Defendant's common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

D. ADEQUACY OF REPRESENTATION

38. Plaintiff will fairly and adequately represent and protect the interests of the members of the proposed Class.

39. Counsel who represent Plaintiff and the Proposed Class are competent and experienced in litigating large employment class actions.

E. SUPERIORITY OF CLASS ACTION

40. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Proposed Class Members is not practicable, and questions of law and fact common to the Proposed Class predominate over any questions affecting only individual members of the Proposed Class. Each member of the Proposed Class has been damaged and is entitled to recovery by reason of Defendant's illegal policy and/or practice of failing to provide rest periods, failing to reimburse expenses, failing to provide accurate itemized wage statements, and failing to pay all wages upon resignation or termination.

41. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI.

FIRST CAUSE OF ACTION

PLAINTIFF ON BEHALF OF HIMSELF AND THE PROPOSED CLASS

FAILURE TO ALLOW REST PERIODS PURSUANT TO

LABOR CODE § 226.7

42. Plaintiff, on behalf of himself and the Proposed Class, realleges and incorporates by reference all previous paragraphs.

43. Labor Code § 226.7 requires an employer to pay an additional hour (1) of compensation for each rest period the employer fails to provide. Employees are entitled to a paid ten (10) minute rest break for every four (4) hours worked (or major fraction thereof). Defendant failed to maintain a policy informing Plaintiff and the Proposed Class of this right. As such Plaintiff and the Proposed Class did not take rest breaks.

44. Plaintiff and the Proposed Class consistently worked shifts with no rest breaks, and Defendant failed to maintain an accurate policy advising Plaintiff and the Proposed Class of these rest breaks and failed to provide Plaintiff and the Proposed Class with rest breaks of not less than ten (10) minutes as required by the Labor Code during the relevant time period.

45. Additionally, on a regular and consistent basis, Defendant failed to provide Plaintiff and the Proposed Class members with a second rest period despite regularly requiring Plaintiff and the Proposed Class to work over six (6) hours. Plaintiff and the Proposed Class were not aware they could take rest breaks. Plaintiff and the Proposed Class members believed they would be reprimanded if they took rest breaks. If Plaintiff and the Proposed Class members were able to find some time to take a few minutes for a break, these were not compliant rest breaks because they were interrupted, short, late, or missed altogether. As such, Defendant failed to provide Plaintiff and the Proposed Class with compliant rest periods.

46. Further, Plaintiff and the Proposed Class were not compensated with one (1) hour of wages at the regular rate of compensation for each compliant rest period that was not provided as required by Labor Code § 226.7. On July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. *Ferra* requires the rest period premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, when rest premiums are provided, Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate in violation of Labor Code §§ 226.7.

47. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to damages in an amount equal to one (1) hour of wages per missed rest period, in a sum to be proven at trial.

VII.

SECOND CAUSE OF ACTION

PLAINTIFF ON BEHALF OF HIMSELF AND THE PROPOSED CLASS

FAILURE TO REIMBURSE EXPENSES PURSUANT TO

LABOR CODE § 2802

48. Plaintiff, on behalf of himself and the Proposed Class, realleges and incorporates by reference all previous paragraphs.

49. Labor Code § 2802 requires employers to indemnify employees for all necessary expenditures incurred by employees in the discharge of their duties.

50. Defendants have failed to reimburse Plaintiff and the Proposed Class for the cost of using their personal cell phones and home office equipment (including computer, desk, monitor, and their personal keyboard) for business related purposes. Defendant required that Plaintiff and the Class be available by cell phone and answer/use their cell phones while working. Defendant

asked Plaintiff and the Class to recreate their office set up at home to perform their job duties. Upon information and belief, Plaintiff and the aggrieved employees were required to spend about \$200 a month for business related purposes. These cell phones and office equipment were not provided by Defendant, and Defendant failed to reimburse Plaintiff and the Class for the costs associated with using these personal cell phones and equipment.

51. As a result of the unlawful acts of Defendants, Plaintiff and the Proposed Class have been deprived of reimbursement in the amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

VIII.

THIRD CAUSE OF ACTION

PLAINTIFF ON BEHALF OF HIMSELF AND THE PROPOSED CLASS

VIOLATION OF LABOR CODE § 226(A)

52. Plaintiff, on behalf of himself and the Proposed Class, realleges and incorporates by reference all previous paragraphs.

53. California Labor Code § 226(a) requires employers to issue wage statements that accurately report total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (Labor Code §§ 226(a)(2), and (9).)

54. Defendant has failed to provide accurate itemized wage statements in violation of Labor Code § 226(a) which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

55. Labor Code § 226(a)(2) requires that every employer shall semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing the total hours worked by the employee. Plaintiff and the Proposed Class are issued wage statements that do not include the total hours worked by the employee.

56. Labor Code § 226(a)(9) requires that every employer shall semimonthly or at the

1 time of each payment of wages, furnish each of his or her employees, an accurate itemized
2 statement in writing showing all applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the
4 Proposed Class are issued wage statements that do not include all applicable hourly rates in effect
5 during the pay period and the corresponding number of hours worked at each hourly rate by the
6 employee.

7 57. Defendants' failure to provide accurate itemized wages statements according to
8 Labor Code § 226(a) was all done on a regular and consistent basis.

9 58. An employee suffering injury as a result of a knowing and intentional failure by an
10 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual
11 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
12 dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
13 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and
14 reasonable attorneys' fees.

15 **IX.**

16 **FOURTH CAUSE OF ACTION**

17 **PLAINTIFF ON BEHALF OF HIMSELF AND THE PROPOSED CLASS**

18 **WAITING TIME PENALTIES UNDER LABOR CODE § 203**

19 59. Plaintiff, on behalf of himself and the Proposed Class, realleges and incorporates
20 by reference all previous paragraphs.

21 60. Numerous members of the Proposed Class including the Plaintiff are no longer
22 employed by Defendant. They were either fired or quit Defendant's employ.

23 61. Defendant's failure to pay wages, as alleged above was willful in that Defendant
24 knew wages to be due but failed to pay them, thus entitling Plaintiff and the Proposed Class to
25 penalties under Labor Code § 203, which provides that an employee's wages shall continue as a
26 penalty until paid for a period of up to thirty (30) days from the time they were due.

27 62. Plaintiff and the Proposed Class who missed one or more rest breaks under
28 Defendant's employment were not paid all wages due upon their separation from Defendant's

1 employment.

2 63. Defendant has failed to pay Plaintiff and others a sum certain at the time of
3 termination or within seventy-two (72) hours of their resignation and have failed to pay those sums
4 for thirty (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiff and the
5 Proposed Class are entitled to a penalty in the amount of Plaintiff's and the Proposed Class
6 Members' daily wage multiplied by thirty (30) days.

7 **X.**

8 **FIFTH CAUSE OF ACTION**

9 **PLAINTIFF ON BEHALF OF HIMSELF AND THE PROPOSED CLASS**

10 **UNFAIR COMPETITION PURSUANT TO BUSINESS & PROFESSIONS CODE § 17200**

11 64. Plaintiff, on behalf of himself and the Proposed Class, realleges and incorporates
12 by reference all previous paragraphs.

13 65. This is a Class Action for Unfair Business Practices. Plaintiff, on behalf of himself,
14 on behalf of the general public, and on behalf of the Proposed Class, bring this claim pursuant to
15 Business & Professions Code § 17200, *et seq.* The conduct of Defendant as alleged in this
16 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general
17 public, and the Proposed Class. Plaintiff seeks to enforce important rights affecting the public
18 interest within the meaning of Code of Civil Procedure § 1021.5.

19 66. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204,
20 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
21 appropriate equitable relief.

22 67. Business & Profession Code § 17200, *et seq.* prohibits unlawful and unfair business
23 practices.

24 68. California's wage and hour laws express fundamental public policies. Providing
25 employees with proper wages and compensation are fundamental public policies of this State and
26 of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce
27 vigorously minimum labor standards, to ensure that employees are not required or permitted to
28 work under substandard and unlawful conditions, and to protect law-abiding employers and their

1 employees from competitors who lower their costs by failing to comply with minimum labor
2 standards.

3 69. Defendant has violated statutes and public policies as alleged herein. Through the
4 conduct alleged in this Complaint, Defendant has acted contrary to these public policies, have
5 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair
6 business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving Plaintiff,
7 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
8 guaranteed to all employees under law.

9 70. Defendant's conduct, as alleged hereinabove, constitutes unfair competition in
10 violation of § 17200, *et seq.* of the Business & Professions Code.

11 71. Defendant, by engaging in the conduct herein alleged, either knew or in the exercise
12 of reasonable care, should have known that the conduct was unlawful. As such it is a violation of
13 § 17200, *et seq.* of the Business & Professions Code.

14 72. As a proximate result of the above-mentioned acts of Defendant, Plaintiff and
15 others similarly situated have been damaged in a sum as may be proven.

16 73. Unless restrained, Defendant will continue to engage in the unlawful conduct as
17 alleged above. Pursuant to the Business & Professions Code, this court should make such orders
18 or judgments, including the appointment of a receiver, as may be necessary to prevent the use or
19 employment by Defendant, its agents, or employees, of any unlawful or deceptive practices
20 prohibited by the Business & Professions Code, and/or, including but not limited to, restitution
21 and disgorgement of profits which may be necessary to restore Plaintiff and members of the
22 proposed Class the money Defendant has unlawfully failed to pay.

23 **XI.**

24 **SIXTH CAUSE OF ACTION**

25 **PENALTIES PURSUANT TO LABOR CODE §2699, ET SEQ.**

26 74. Plaintiff, on behalf of himself and all aggrieved employees, realleges and
27 incorporates by reference all previous paragraphs.

28 75. As a result of the acts alleged above and specifically incorporated herein, Plaintiff

1 seeks penalties under Labor Code §2699, *et seq.* use of Defendant's violation of Labor Code §§
2 201, 202, 203, 226(a), 226.7, and 2802; Wage Order 1-2001; and California Code of Regulations,
3 Title 8, Section 11010, which call for civil penalties.

4 76. Plaintiff brings this representative action on behalf of herself and the State of
5 California as well as a group of aggrieved employees defined as: All persons who are employed
6 or have been employed as an hourly or salary nonexempt employee by TTI, Inc., in the State of
7 California who worked one or more pay periods since one (1) year prior to the date of this letter
8 and continuing to the present and continuing to the present plus any additional time during which
9 the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9
10 of the California Rules of Court, the 'Emergency Rules Related to COVID-19'. ("aggrieved
11 employees").

12 77. As a result of the acts alleged above, Plaintiffs, on behalf of themselves and all
13 other aggrieved employees, seek penalties under Labor Code section 2699, *et seq.* because of
14 Defendant's violation of IWC Wage Order 1-2001, for which a civil penalty applies under PAGA.

15 78. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code §
16 2699, *et seq.* because of Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, and
17 2802, and Wage Order 1-2001, which call for civil penalties.

18 79. For each such penalty, Plaintiff and the aggrieved employees are entitled to
19 penalties in an amount to be shown at trial, subject to the following formula:

20 a. \$100 for the initial violation per employee per pay period.

21 b. \$200 for each subsequent violation per employee per pay period.

22 80. These penalties shall be allocated seventy-five percent (75%) to the LWDA and
23 twenty-five percent (25%) to the affected employees.

24 81. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded a notice letter to the
25 LWDA¹ and mailed a letter by certified mail to each of the Defendant's entity address, as
26 proscribed by the Code on May 17, 2024, describing Defendants' conduct in violation of Labor

27 ¹ Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California
28 Labor and Workforce Development Agency / Department of Industrial Relations website
(<https://dir.tfaforms.net/308>).

Code §§ 201, 202, 203, 226(a), 226.7, and 2802, and Wage Order 1-2001. (see Exhibit “1.”) Plaintiff obtained an e-filing confirmation from the LWDA confirming receipt of the notice (see Exhibit “2”).

82. As no letter evidencing the LWDA’s intention to investigate was received by Plaintiff’s Counsel within sixty-five (65) calendar days, Plaintiff is entitled to commence a civil action as though the LWDA had not chosen to investigate pursuant to Labor Code §2699.3(a)(2)(A). Plaintiff will also provide the LWDA with a filed-stamped copy of the First Amended Class and Representative Action Complaint immediately.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages in the amount of Plaintiff’s and each Proposed Class Members’ hourly wage for each rest period missed or taken late from at least four (4) years prior to the filing of this action to the present as may be proven;

2. For compensatory damages in the amount of Plaintiff’s and each Proposed Class Members’ unreimbursed out of pocket expenses as a requirement of employment;

3. For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a) in the amount of 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 exceeding an aggregate penalty of four thousand dollars (\$4,000);

4. For penalties pursuant to Labor Code § 203 for all employees who were terminated or resigned equal to their daily wage times thirty (30) days;

5. An award of prejudgment and post judgment interest;

6. An order enjoining Defendant and its agents, servants, and employees, and all persons acting under, in concert with, or for it from providing Plaintiff with proper rest periods, accurate itemized wage statements, and wages upon termination/resignation pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 2802, and IWC 1-2001;

7. For restitution for unfair competition pursuant to Business & Professions Code § 17200, *et seq.*, including disgorgement or profits, in an amount as may be proven;

1 8. For injunctive relief for Defendant's failure to provide lawful itemized wage
2 statements pursuant to Labor Code § 226.

3 9. For injunctive relief pursuant to Business & Professions Code § 17200, *et seq* to
4 remedy the unfair, unlawful and fraudulent activity alleged above.

5 10. For penalties under Labor Code §2699, *et seq.* for Defendant's violation of Labor
6 Code §§ 201, 202, 203, 226(a), 226.7, 2802, and Wage Order 1-2001;

7 11. An award providing for payment of costs of suit;

8 12. An award of attorneys' fees; and

9 13. Such other and further relief as this Court may deem proper and just.

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

12
13 DATED: July 22, 2024

KINGSLEY SZAMET & LY

14
15 By: 

Kelsey M. Szamet
Attorneys for Plaintiff Angel Esquivel and the
proposed class

EXHIBIT "1"



16133 Ventura Boulevard, Suite 1200, 
Encino, California 91436
www.kingsleylawyers.com 
(818) 990-8300 

May 17, 2024

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
Via Electronic Submission: <https://dir.tfaforms.net/308>

TTI, Inc.
2441 North East Parkway
Fort Worth, TX 76106
Via Certified Mailing # 7022 3330 0002 1335 9797

Re: Angel Esquivel v. TTI, Inc.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents Angel Esquivel (“Plaintiff”) and a proposed group of current and former employees working for TTI, Inc. (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of Angel Esquivel referred to as “himself” and the State of California as well as on behalf of a group of aggrieved employees defined as: All persons who are employed or have been employed as an hourly or salary non-exempt employee by TTI, Inc., in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

Pursuant to Labor Code § 226.7 and Wage Order 1-2001, Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with rest periods and failed to provide timely rest periods. Additionally, on a regular and consistent basis, Defendant failed to provide Plaintiff and the aggrieved

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

May 17, 2024

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employees with a second rest period despite regularly requiring Plaintiff and the aggrieved employees to work over six (6) hours. Plaintiff and the aggrieved employees were not aware they could take rest breaks. Plaintiff and the aggrieved employees believed they would be reprimanded if they took rest breaks. If Plaintiff and the aggrieved employees were able to find some time to take few minutes for a break, these were not compliant rest breaks because they were interrupted, short, late, or missed altogether. As Such, Defendant failed to provide Plaintiff and the aggrieved employees with compliant rest periods. Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7.

Further, Plaintiff and all aggrieved employees were not compensated with one (1) hour of wages at the regular rate of compensation for each compliant rest period that was not provided as required by Labor Code § 226.7. On July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, (2021) 11 Cal. 5th 858, 863, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. *Ferra* requires the rest period premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, when rest premiums are provided, Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate in violation of Labor Code §§ 226.7.

Labor Code § 2802 provides that an employer shall 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, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. Defendant has failed to reimburse Plaintiff and aggrieved employees the cost of using their personal cell phones and home office equipment (including computer, desk, monitor, and keyboard) for business related purposes. Defendant required that Plaintiff and the aggrieved employees be available by cell phone and answer/use their cell phones while working. Defendant asked Plaintiff and aggrieved employees to recreate their office set up at home to perform their job duties. Plaintiff and the aggrieved employees were required to spend about \$200 a month for business related purposes. These cell phones and equipment were not provided by Defendant, and Defendant failed to reimburse Plaintiff and the aggrieved employees for the costs associated with using these personal cell phones and equipment.

Defendant engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a) which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing total hours worked by the employee and all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

May 17, 2024

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by the employee. Labor Code §226(a)(2) and (9). Plaintiff and the aggrieved employees are issued wage statements that do not include the total hours worked by the employee or all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee. As such, Plaintiff is an aggrieved employee within the meaning of the PAGA and Defendant has violated Labor Code §226(a) with respect to Plaintiff and all aggrieved employees.

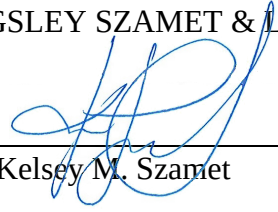
Labor Code § 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.” Here, Plaintiff and all aggrieved employees who missed one more rest break under Defendant’s employment were not paid all wages due upon their separation from Defendant’s employment. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

Under Labor Code § 2699.3(c)(2)(A), Defendant may cure the alleged violations within thirty-three (33) calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 203, 226(a), 226.7, and 2802, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY SZAMET & LY

By: 

Kelsey M. Szamet

KMS/pe

- Cc: 1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/315>
2. ABRAMSON LABOR GROUP, 11846 Ventura Blvd, Suite 100, Studio City, CA91604

EXHIBIT "2"

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Kelsey

Your Last Name *

Szamet

Firm Name (if any) *

Kingsley Szamet & Ly

(Enter "in pro per" if you are representing yourself)

Your Email Address *

service@kingsleylawyers.c

Your Street Name, Number and Suite/Apt *

16133 Ventura Blvd, Suite

Your Mobile Phone Number

818-990-8300

Your City *

Encino

Your Work Phone Number

Your State *

California

Your Zip/Postal Code *

91436

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Angel Esquivel

Plaintiff/Aggrieved Employee Occupation *

Technician

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name *

TTI, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

2441 North East Parkway

Employer City *

Fort Worth

Employer State *

Texas

Employer Zip/Postal Code *

76106

Employer Industry *

Other

Employer Industry for "Other" *

Electronics Distributor

Add additional defendants

- ☐ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

50

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☐ Overtime
- ☐ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☐ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☐ Other

Child Labor – Specify Ages

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

- ☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Eric

Billing Last Name *

Kingsley

Billing Email *

service@kingsleykingsley.c

Billing Phone

8189908300

Billing Street Name, Number and Suite/Apt *

16133 Ventura Blvd, Suite 1200

Billing City *

Encino

Billing State *

California

Billing Zip/Postal Code *

91436

Credit Card Type *

Credit Card Number *

CVV Number *

Credit Card Expiration Month *

Credit Card Expiration Year *

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

Choose File

PAGA Letter - TTL.pdf

Other Attachment - (if any) (must be a .pdf)

Choose File

No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov.

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Previous Page

Submit

Thank you for submission of your PAGA Case.

noreply@salesforce.com <noreply@salesforce.com>

on behalf of

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>

Fri 5/17/2024 11:22 AM

To:Service Email <service@kingsleylawyers.com>

External Email!

5/17/2024

LWDA Case No. LWDA-CM-1028974-24

Law Firm : Kingsley Szamet & Ly

Plaintiff Name : Angel Esquivel

Employer: TTI, 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](http://labor.ca.gov/Private_Attorneys_General_Act.htm)