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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

STEPHEN ARMAS and JOSE ISRAEL JERONIMO BRAN, as individuals and on behalf of others similarly situated and the State of California under the Private Attorneys General Act,

Plaintiffs,

vs.

JJ&S ASBESTOS REMOVAL, INC., and DOES 1 through 50, inclusive,

Defendants.

Case No. 24CU000405C

Hon. Blaine K. Bowman
Dept. 74

CLASS ACTION

THIRD AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

1. Failure to Pay All Overtime Wages
2. Failure to Pay All Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Paid Sick Leave Violations
6. Untimely Payment of Wages
7. Wage Statement Violations
8. Waiting Time Penalties
9. Failure to Reimburse Business Expenses
10. Unfair Competition
11. Civil Penalties under the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*)

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Plaintiffs STEPHEN ARMAS and JOSUE ISRAEL JERONIMO BRAN, on behalf of all others similarly situated and the State of California under the Private Attorneys General Act (collectively, "Plaintiffs") bring this THIRD AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants JJ&S ASBESTOS REMOVAL, INC., and DOES 1 through 50, inclusive (collectively "Defendants"), alleging as follows:

INTRODUCTION

1. This is a class action for wage and hour violations of the California Labor Code.

2. Defendants failed to compensate Plaintiffs and Class Members for all hours suffered or permitted to work in violation of the applicable IWC Wage Order.

3. Defendants' underpayment of wages was facilitated by their unlawful company-wide practice of editing time records to show fewer hours worked than Plaintiffs and Class Members actually worked.

4. Defendants failed to provide, authorize, and/or permit Plaintiffs and the Class Members to take compliant meal and rest periods to which they were entitled. However, Defendants did not pay Plaintiffs and Class Members meal or rest period premiums.

5. Defendants failed to properly reimburse Plaintiffs and the Class Members for using their personal cell phones and other tools to complete work-related duties.

6. Defendants' employment policies, practices, and payroll administration systems enabled and facilitated these violations on a company-wide basis with respect to the Class Members.

7. Defendants are further liable for derivative claims for wage statements, untimely payment, and other associated violations.

8. Plaintiffs seek to recover the underpaid damages, plus associated penalties, interests, attorney's fees and costs.

JURISDICTION & VENUE

9. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the California Constitution as the causes of action are premised upon violations of California law.

10. The monetary damages and restitution sought exceed the minimal jurisdiction limits of the Superior Court.

11. This Court has jurisdiction over Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California, or otherwise intentionally avail themselves to the California economy so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

12. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conducted business and committed some of the alleged violations in this County.

PARTIES

A. Plaintiff Stephen Armas

13. Plaintiff Armas is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about December 2022 to May 2024. Plaintiff worked as a Project Estimator.

14. The State of California, via the Labor and Workforce Development Agency ("LWDA"), is the real party in interest in this action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff files suit is always the real party in interest."]) To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.*, Court of Appeals Case No. B326759 (2nd App. Dist.) ____ Cal. App. 5th _____ (Mar. 20, 2024, *as modified* Apr. 18, 2024), the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

B. Plaintiff Josue Israel Jeronimo Bran

15. Plaintiff Jeronimo Bran is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about October 2022 to about April 2024. Plaintiff worked as a General Laborer.

16. The State of California, via the Labor and Workforce Development Agency ("LWDA"), is the real party in interest in this action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff files suit is always the real party in interest."]) To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.*, Court of Appeals Case No. B326759 (2nd App. Dist.) ____ Cal. App. 5th _____ (Mar. 20, 2024,

as modified Apr. 18, 2024), the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

C. Defendants

17. Defendant JJ&S Asbestos Removal, Inc., is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

18. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

19. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

20. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

21. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

<u>CLASS ALLEGATIONS</u>

22. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

23. Plaintiffs reserve the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

24. The class is ascertainable and shares a well-defined community of interest in this litigation:

a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of class members are ascertainable by inspection of Defendants' employment and payroll records.

b. Typicality: Plaintiffs' claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiffs experienced, will establish the right of the class to recover on the causes of action alleged herein.

c. Adequacy: Plaintiffs are adequate class representatives; will take all necessary steps to protect the class members' interests adequately and fairly; have no interest antagonistic to other class members; and are represented by attorneys who have substantial experience prosecuting, defending, resolving, and litigating wage and hour class, collective, and representative actions in California state and federal courts.

d. Superiority: A class action is superior to other means for adjudicating this dispute. Individual joinder is impractical. Class treatment will allow for common issues to be resolved in a single forum, simultaneously, and without duplication of effort and expense.

e. Public Policy Considerations: Certification of this lawsuit as a class action advances the State of California's strong public interest in ensuring its approximately millions of employed residents are properly paid the wages they earned for the hours they worked. Class actions provide a mechanism for enforcement of labor laws and allow for vindication of employee rights by unnamed class members.

25. Common questions of law and fact as to the class members predominate over questions affecting only individual members. The common questions of law and fact exist as to whether the employment policies and practices formulated by Defendants and applied to the class members constitute violations of California law.

GENERAL ALLEGATIONS

26. Plaintiffs and Class Members worked for Defendants as non-exempt employees and were compensated on an hourly basis.

27. Defendants repeatedly underpaid Plaintiffs and Class Members by not accounting for all hours they worked. Plaintiffs and Class Members were required to complete work while off-the-clock to complete time sensitive duties. Also, when travel time from project sites to Defendant's place of business resulted in Plaintiffs and Class Members to working more than eight hours, that additional time worked was not accounted for by Defendants. Consequently, Plaintiffs and Class Members' time records did not reflect all hours worked. This practice resulted in unpaid minimum, regular, and overtime wages for Plaintiffs and Class Members.

28. Further, due to employee responsibilities and the continuous flow of business, Plaintiffs and Class Members suffered late, short, interrupted, and/or missed meal and rest periods. Specifically, Defendant maintained an unlawful policy requiring that Plaintiffs and Class Members combine rest periods with their meal periods, thus depriving Plaintiffs and Class Members of compliant rest periods. However, when Plaintiffs and Class Members suffered these deficient meal and rest periods, Defendants did not pay Plaintiffs and Class Members premiums.

29. Defendants also required Plaintiffs and Class Members to incur necessary, work-related costs, without reimbursement. Plaintiffs and Class Members were required to use their personal cell phones to clock in and out for work. Additionally, Plaintiffs and other Class Members were required to purchase their own tools, such as hammers, saws, and drills, to fulfill their responsibilities.

However, despite requiring employees to incur these expenses, Defendants did not compensate employees for using their personal devices or tools for employment-related activities. Plaintiffs further believe and allege that other Class Members also incurred these costs without reimbursement from Defendants.

30. Defendants failed to provide accurate itemized wage statements that included the accurate gross or net wages and listed all applicable hourly wage rates. Defendants failed to pay Plaintiffs and Class Members at least minimum wage for all hours worked, resulting in inaccurate wage statements. Therefore, Defendants have provided inaccurate and noncompliant wage statements to Class Members.

31. These violations create derivative liability for failure to pay all wages owed each payday or upon separation of employment.

<u>FIRST CAUSE OF ACTION</u>

FAILURE TO PAY ALL OVERTIME WAGES

Violation of Labor Code §§ 510 and 1194

32. All outside paragraphs of this Complaint are incorporated into this section.

33. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

34. Defendants failed in their affirmative obligation to pay Plaintiffs and class members no less than one and one-half times their respective "regular rate of pay" for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective "regular rate of pay" for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the "Hours and Days of Work" sections of the applicable orders).

/ /

35. Plaintiffs and class members are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

<u>SECONDCAUSE OF ACTION</u>

FAILURE TO PAY ALL MINIMUM WAGES

Violation of Labor Code §§ 204, 558, 1194, 1197, 1198

36. All outside paragraphs of this Complaint are incorporated into this section.

37. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 558, 1194, 1197, and 1198, which provide that all non-exempt employees are entitled to all minimum wages for all hours worked, and provide a private right of action for the failure to pay all minimum wage compensation for all work performed.

38. At all times relevant herein, Defendants were required to properly compensate Plaintiffs and class members for all hours worked pursuant to California Labor Code §§ 1194, 1197 and 1198, and the Wage Order. Wage Order 16, Section 4 requires an employer to pay to every employee on the established payday for the period involved not less than the applicable minimum wage for all hours worked in the payroll period. Defendants caused Plaintiffs and class members to work hours in a workweek but did not properly compensate Plaintiffs and class members at least minimum wages for such hours.

39. At all times relevant herein, Defendants lacked good faith and had no reasonable grounds for believing that their practices in failing to pay all minimum wages owed at the applicable rate was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the Industrial Welfare Commission. Defendants, therefore, in addition to owing minimum wages to Plaintiffs and class members, also owe liquidated damages in an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to Labor Code § 1194.2.

40. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiffs and class members in a civil action for the unpaid amount of minimum wages owing, including interest thereon, as well as statutory penalties, liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 558, 1194, 1194.2,

1197, 1197.1 and 1198, the Wage Order 16, California Code of Civil Procedure § 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

41. Plaintiff and class members are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

<u>THIRD CAUSE OF ACTION</u>

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

42. All outside paragraphs of this Complaint are incorporated into this section.

43. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful regular rate of compensation.

44. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiffs and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

45. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

46. Plaintiffs and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

<u>FOURTH CAUSE OF ACTION</u>

REST PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 516

47. All outside paragraphs of this Complaint are incorporated into this section.

48. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods (or rest period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful regular rate of compensation.

49. Defendants willfully failed in their affirmative obligation to consistently authorize and permit Plaintiffs and class members to receive compliant, duty-free rest periods of not less than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the "Rest Periods" sections of the applicable orders).

50. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant rest period was not provided, in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

<u>FIFTH CAUSE OF ACTION</u>

FAILURE TO PAY ALL PAID SICK LEAVE WAGES

Violation of Labor Code §§ 200, 218, 246 *et seq.*

51. All outside paragraphs of this Complaint are incorporated into this section.

52. Defendants knowingly and intentionally failed in their affirmative obligation to pay sick leave wages to Plaintiffs and a paid sick leave subclass in violation of Labor Code section 246 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 ["Courts have recognized that 'wages' also include those benefits to which an employee is entitled as a part of his or her compensation, including money, room, board, clothing, vacation pay, and sick pay"].)

53. Labor Code section 246(l), in conjunction with Labor Code section 248 *et seq.,* 248.1, 248.2, and 248.6, in addition to the applicable County sick pay ordinances in locales worked by class members, govern how Defendants were required to calculate paid sick leave.

54. Defendants failed to pay Plaintiffs and class members their paid sick leave wages at one of the lawful rates set forth in the statute or ordinance because Defendants failed to include in their sick leave calculation the additional remuneration received by Plaintiffs and class members (i.e., at the regular rate of pay and/or calculated based on total wages earned).

55. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19 Supplemental Sick Leave wages to class members at the correct accrual rate or hourly pay rate in violation of Labor Code sections 246, 248.1, 248.2, and 248 *et seq.*

56. As a result, Defendants violated the Labor Code and are liable to Plaintiffs and class members for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

<u>SIXTH CAUSE OF ACTION</u>

UNTIMELY PAYMENT OF WAGES

Violation of Labor Code §§ 204, 210, 218

57. All outside paragraphs of this Complaint are incorporated into this section.

58. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

59. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiffs and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the "Minimum Wages" sections of the applicable orders).

60. Plaintiffs and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of $100 for the initial violation for each failure to pay each employee and $200 for all subsequent violations and for all willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

SEVENTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226

61. All outside paragraphs of this Complaint are incorporated into this section.

62. This cause of action is brought by a wage statement subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation.

63. Defendants knowingly and intentionally failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiffs and class members resulting in injury to Plaintiffs and class members. Specifically, the wage statements issued to Plaintiffs and class members did not accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

64. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of accurate itemized wage statements, causing confusion and concealing wage and premium underpayments.

65. As a result, Plaintiffs and class members are entitled to recover the statutory penalty of $50 per employee for the initial pay period in which a violation occurred and $100 per employee for each violation in a subsequent pay period, up to an aggregate penalty of $4,000 per employee, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 226(e).

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<u>EIGHTH CAUSE OF ACTION</u>

WAITING TIME PENALTIES

Violation of Labor Code §§ 201 *et seq*.

66. All outside paragraphs of this Complaint are incorporated into this section.

67. This cause of action is brought by a waiting time subclass pursuant to Labor Code §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of employment, and which further provide a private right of action to recover statutory waiting time penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days wages.

68. Defendants willfully failed and continue to fail in their affirmative obligation to pay all wages earned and unpaid to Plaintiffs and class members immediately upon termination of employment or within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his or her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

69. Plaintiffs and class members are entitled to recover a waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

<u>NINTH CAUSE OF ACTION</u>

FAILURE TO REIMBURSE BUSINESS EXPENSES

Violation of Labor Code § 2802

70. All outside paragraphs of this Complaint are incorporated into this section.

71. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and a reimbursement subclass for all necessary expenditures, losses, expenses, and costs incurred by them in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

72. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiffs and class members are entitled to recover the amount unreimbursed expenses of Plaintiffs and class members in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2802.

TENTH CAUSE OF ACTION

UNFAIR COMPETITION

Violation of Business and Professions Code §§ 17200 *et seq.*

73. All outside paragraphs of this Complaint are incorporated into this section.

74. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in the State of California in violation of California Business and Professions Code § 17200 by committing the foregoing wage and hour violations alleged throughout this Complaint.

75. Defendants' dependence on these unfair and/or unlawful business practices deprived Plaintiffs and continue to deprive other class members of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to Defendants over competitors who have been and/or are currently employing workers in compliance with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

76. Plaintiffs are victims of Defendants' unfair and/or unlawful conduct alleged in this Complaint, and Plaintiffs, as individuals and on behalf of others similarly situated, seek full restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

77. Plaintiffs do not have an adequate remedy at law for past or future violations, to the extent the statute of limitations on each of the alleged causes of action do not extend to the four year limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order violations do not provide a private right of action.

78. Plaintiffs and class members are entitled to injunctive relief against Defendants, restitution, and other equitable relief to return all funds over which Plaintiffs and class members have an ownership interest and to prevent future damage and the public interest under Business and Professions Code § 17200 *et seq.* Plaintiffs and class members are further entitled to recover interest, attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

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<u>ELEVENTH CAUSE OF ACTION</u>

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiffs on Behalf of the State and the Aggrieved Employees Against All Defendants)

79. All outside paragraphs of this Complaint are incorporated into this section.

80. Plaintiffs bring this cause of action as a proxy for the State of California on behalf of the following "aggrieved employees" pursuant to the Private Attorneys General Act ("<u>PAGA</u>"), codified as Labor Code section 2698 *et seq.*:

a. All current and former non-exempt employees who worked for Defendants in California at any time from one year prior to the postmark date of the initial PAGA notice through date of trial.

81. Plaintiffs reserve the right to amend, supplement, or add to this description of the aggrieved employees, according to proof.

82. The State of California, via the Labor and Workforce Development Agency ("<u>LWDA</u>"), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff files suit is always the real party in interest."])

83. Labor Code section 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 pursuant to the procedures specified in Section 2699.3."

84. Labor Code section 2699(f) provides: "For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation 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."

85. Any allegations regarding violations of the IWC Wage Orders are enforceable as violations of Labor Code section 1198, which states: "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

86. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil penalties under the PAGA.

87. On or about **June 25, 2024**, Plaintiff Armas paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support the alleged violations.

88. A true and correct copy of Plaintiff Armas's written PAGA notice, entitled "Notice of Labor Code Violations" is attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein (the "PAGA notice").

89. On or about **July 30, 2024**, Plaintiff Jeronimo Bran paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support the alleged violations.

90. A true and correct copy of Plaintiff Jeronimo Bran's written PAGA notice, entitled "Notice of Labor Code Violations" is attached hereto as Exhibit 2 and incorporated by reference as though fully set forth herein (the "PAGA notice").

91. To date, neither Plaintiffs nor Plaintiffs' counsel has received a response to Plaintiffs' written PAGA notice from the LWDA.

92. Within 33 calendar days of the postmark date of the notice sent by Plaintiffs, neither Plaintiffs nor Plaintiffs' counsel has received written notice by certified mail from any defendant providing a description of any actions taken to cure the alleged violations.

93. Now that at least 65 days have passed from Plaintiffs notifying Defendants of these violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate

the alleged allegations and issue the appropriate citations to Defendants, Plaintiffs exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq*.

94. As set forth in the PAGA notices attached as Exhibit 1 and Exhibit 2, and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

a. ***Unpaid Overtime***. Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.

b. ***Unpaid Minimum Wages***. Violation of Labor Code §§ 204, 558, 1194, 1197 1198; IWC Wage Orders.

c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.

d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.

e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.

f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.

g. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.

h. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.

i. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.

j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

95. Plaintiffs seek to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notices (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

/ /

PRAYER

Plaintiffs pray for judgment as follows:

a. For certification of this action as a class action;

b. For appointment of Plaintiffs as the class representatives;

c. For appointment of above-captioned counsel for Plaintiffs as Class Counsel;

d. For division of class members into appropriate classes and/or subclasses according to proof;

e. For recovery of all statutory penalties and liquidated damages;

f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;

g. For restitution and injunctive relief;

h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2802 and Code of Civil Procedure § 1021.5.

i. For recovery of damages in amount according to proof;

j. For all recoverable pre- and post-judgment interest;

k. For this action to be maintained as a representative action under the PAGA;

l. For Plaintiffs and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;

m. For recovery of all civil penalties and other recoverable amounts under the PAGA;

n. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, associated with the PAGA claims pursuant to Labor Code § 2699, and Code of Civil Procedure section 1021.5 and any other applicable sections; and

/ /

o. For such other relief the Court deems just and proper.

Dated: April 6, 2026

Ferraro Vega Employment Lawyers, Inc.

Nicholas J. Ferraro

Nicholas J. Ferraro
Lauren N. Vega
Attorneys for Plaintiff Stephen Armas and Josue Israel Jeronimo Bran

EXHIBIT 1

FERRARO VEGA
SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3333 Camino del Rio South, Suite 300
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619-693-7727
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June 25, 2024

NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

JJ&S Asbestos Removal, Inc.
925 Poinsettia Ave, Suite 4
Vista, California 92081

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **STEPHEN ARMAS** ("Plaintiff(s)") and all other "aggrieved employees" of the following "Defendant(s)":

JJ&S ASBESTOS REMOVAL, INC.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency ("LWDA") does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act ("PAGA"). "PAGA allows an 'aggrieved employee'—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer." *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Project Estimator from about December 2022 to May 2024. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The "aggrieved employees" include Plaintiff and the following individuals:

> All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the "aggrieved employees" and the "PAGA Period").

Plaintiff reserves the right to expand or narrow the definition of the "aggrieved employees" in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants' violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

Defendants violated Labor Code sections 510, 1194, and 1198, along with the "Hours and Days of Work" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;" and "any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;" and "any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the "Hours and Days of Work" sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages at the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

Defendant would not account for all of Plaintiff and the aggrieved employees' travel time as time worked. Plaintiff and the aggrieved employees were required to travel from project sites back to Defendant's place of business. However, if the travel time resulted in Plaintiff and the aggrieved employees' working more than eight hours, Defendant did not include that time as time worked. This occurred about every week while Plaintiff and the aggrieved employees were working for Defendants.

Additionally, Defendants often required Plaintiff and the aggrieved employees to work overtime to finish projects. However, upon information and belief, Defendants frequently failed to include all overtime hours Plaintiff and aggrieved employees worked in their total hours worked, resulting in unpaid overtime wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 ($50/$100), 1199 / "Penalties" section of the IWC Wage Orders) ($50/$100), and 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave
Violation of Labor Code §§ 246 through 248.7

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) "the same manner as the regular rate of pay for the workweek;" (2) "by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days;" or (3) "for exempt employee … in the same manner as the employer calculates wages for other forms of paid leave time." Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees "with written notice of the amount of paid sick leave available … for use on either the employee's itemized wage statement … or in a separate writing provided on the designated pay date with the employee's payment of wages."

Defendants failed to comply with California's paid sick leave laws with respect to the aggrieved employees. Defendants failed to provide Plaintiff and the aggrieved employees with all sick leave accrued. Plaintiff and the aggrieved employees worked off-the-clock, overtime hours that were not accounted for due to Defendant's time editing practice, when calculating an employee's accrued paid sick leave. Therefore, Plaintiff and the other aggrieved employees were not awarded the total accrued sick leave time they earned.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Upon information and belief, Plaintiff and the aggrieved employees routinely experienced missed, late, short, and interrupted meal periods. Each time Plaintiff and the aggrieved employees experienced a noncompliant meal period, they were owed a meal period premium. However, as a matter of policy and practice, Defendant failed to pay Plaintiff and other aggrieved employees a meal period premium in violation of Labor Code section 226.7.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major faction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Defendant did not provide Plaintiff and the aggrieved employees with compliant rest periods. Plaintiff and aggrieved employees were not authorized to take one uninterrupted ten-minute rest period for each four-hour period (or major fraction thereof) worked because Defendant had an unlawful policy and practice of requiring Plaintiff and the aggrieved employees to combine their rest periods with their meal periods. Therefore, Plaintiff and aggrieved employees were expected to work continuously for four hours (or major fraction thereof) without a compliant rest period. Defendant did not pay rest period premiums for those non-compliant rest periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section … 204 … shall be subject to a civil penalty" of $100 for an initial violation and $200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all premiums, overtime, regular, and other earnings each pay period.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 ($100/$200) per violation per pay period per employee, and Labor Code section 210 ($100/$200) per violation per pay period, along with all other civil penalties permitted by law.

<u>Untimely Payment of Wages Upon Separation of Employment</u>
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

<u>Labor Code section 201</u> requires that if an employer fires an employee, the wages must be paid immediately. <u>Labor Code section 202</u> requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. <u>Labor Code section 202</u> states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. <u>Labor Code section 203</u> requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Specifically, Plaintiff did not receive his final wages in a timely manner. Plaintiff was terminated on May 17, 2024, yet he did not receive his final wages until May 22, 2024, five days after his last day. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Defendants failed to pay Plaintiff and other aggrieved employees for all of the time that they worked such as all overtime wages, sick leave pay, and meal and rest premium wages owed. Because Defendants have not paid all wages and premiums owed to class members to this day, even after they separated from employment, Defendants are also liable for waiting time penalties under Labor Code section 203. Nevertheless, Defendants have not paid all waiting time penalties owed.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 ($250/$1,000) and 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses
Violation of Labor Code §§ 2802, 2804

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, 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." *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that "[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. Defendant did not provide employees with all necessary tools to carry out their job duties. Plaintiff and aggrieved employees were required to obtain and use their personal tools, such as hammers, saws, and drills, to fulfill their responsibilities. However, Defendant did not reimburse them for those costs. Additionally, after Plaintiff's company provided cell phone stopped working, Plaintiff was required to use his personal cell phone to clock in and out for work. Defendant did not reimburse Plaintiff for using his personal cell phone. Plaintiff and aggrieved employees incurred expenses as part of their job duties and were not reimbursed by Defendant for those costs.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate "payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments." Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 ($500) and 2699 ($100/$200), along with all other civil penalties permitted by law.

Labor Code section 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Attorneys' Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys' fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE –

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

Mariela Romo

Cc Plaintiff Stephen Armas

Joe Mashek, HR Representative
jmashek@jjandsconstruction.com
jmashek@jjandsenviro.com

EXHIBIT 2

LIDMAN LAW
2155 Campus Drive, Suite 150, El Segundo, CA 90245
Office: (424) 322-4772
Fax: (424) 322-4775

July 30, 2024

VIA LWDA WEBSITE
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED
JJ&S Asbestos Removal, Inc., a California corporation
c/o William H. Sauls, Agent for Service of Process
3033 Fifth Avenue, Suite 400
San Diego, CA 92103

Re: *Josue Israel Jeronimo Bran v. JJ&S Asbestos Removal, Inc., doing business as JJ & S Environmental Services, a California corporation*

To Whom It May Concern:

Please be advised that this law firm represents Josue Israel Jeronimo Bran in claims arising from his employment with JJ&S Asbestos Removal, Inc., doing business as JJ & S Environmental Services, a California corporation ("Defendant"). Mr. Jeronimo Bran is an "aggrieved employee" as defined by Labor Code sections 2699, *et seq*. due to Defendant's numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated.

For purposes of this letter, an "aggrieved employee" should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement, and/or other date approved by the Court.

Mr. Jeronimo Bran, a former non-exempt employee, was employed by Defendant from about October 2022 through about April 2024. During his employment with Defendant, Mr. Jeronimo Bran held the job title of General Laborer in which his duties included, without limitation, removing asbestos, mold, and/or lead from properties.

During his employment with Defendant, Mr. Jeronimo Bran was generally scheduled to work Monday through Friday from 6:00 a.m. to 3:00 p.m. Defendant required Mr. Jeronimo Bran to use a tablet to clock in and out of a timekeeping system that kept track and record of his time worked. Mr. Jeronimo Bran often worked 8-12 hour shifts.

During his employment with Defendant, Defendant would keep track of Mr. Jeronimo Bran's time worked and would unlawfully shave Mr. Jeronimo Bran's work time such that Mr. Jeronimo Bran would not be fully paid for all time worked. Specifically, Mr. Jeronimo Bran routinely worked hours in excess of his scheduled shifts but was consistently required by Defendant to reduce his total number of hours to reflect less than the time he actually worked and/or that he worked only 40 hours per week. This time-shaving utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant's favor such that Mr. Jeronimo Bran was routinely unpaid for his time worked. Additionally, Defendant automatically recorded Mr. Jeronimo Bran as having taken one-hour meal periods, but Mr. Jeronimo Bran regularly returned to work before one hour lapsed. As a result, Defendant failed to pay Mr. Jeronimo Bran all required minimum and overtime wages.

Throughout Mr. Jeronimo Bran's employment with Defendant, Mr. Jeronimo Bran was not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and fail to provide second duty-free 30-minute meal periods for shifts of over 10.0 hours in violation of California law. As a result of the work demands imposed by Defendant, Defendant often provided meal periods that were either interrupted, late, or short. Further, Defendant did not require Mr. Jeronimo Bran to record and/or keep track of purported meal periods taken.

Further, Defendant's meal period policies and practices fail to provide Mr. Jeronimo Bran and the other non-exempt employees a second meal period for shifts over 10.0 hours. As a result, when Mr. Jeronimo Bran worked in excess of 10.0 hours, he was not provided with a second 30-minute meal period in violation of California law.

Although Mr. Jeronimo Bran was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Jeronimo Bran with the required meal period premium for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Jeronimo Bran was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Specifically, due to Defendant's practices of understaffing, the work demands imposed by Defendant, and chastising Mr. Jeronimo Bran and non-exempt employees for taking rest periods, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. Indeed, Mr. Jeronimo Bran has not been authorized and permitted to take rest periods during his employment with Defendant.

On those occasions when Mr. Jeronimo Bran was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Jeronimo Bran with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7.

Defendant also failed to reimburse Mr. Jeronimo Bran and other non-exempt employees for necessary business expenses incurred during the relevant time period. Specifically, Defendant required Mr. Jeronimo Bran to purchase tools, including without limitation, a hammer, prybar, and toolbox to perform his job duties but was not reimbursed for his purchases. Defendant also required Mr. Jeronimo Bran to use his personal cellular phone for business purposes. Accordingly, despite Mr. Jeronimo Bran and the other non-exempt employees being required to purchase their own tools and use their personal cellular phones, Defendant did not reimburse Mr. Jeronimo Bran or other non-exempt employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Jeronimo Bran.

As a further result of Defendant's failure to pay all overtime and/or minimum wages owed, and failure to pay all meal and rest period premium wages, Defendant failed to provide Mr. Jeronimo Bran all wages owed upon his separation of employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 16 ("Wage Order 16"):

<u>Minimum Wage Violations</u>

Defendant was required to pay Mr. Jeronimo Bran and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 16, § 4. Mr. Jeronimo Bran and other aggrieved employees were not paid for all hours worked due to Defendant' timekeeping and compensation practices.

<u>Overtime Violations</u>

Defendant was required to pay Mr. Jeronimo Bran and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 16, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, Mr. Jeronimo Bran worked overtime hours but was not properly compensated due to Defendant's policy and practice of shaving its non-exempt employees' time.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Jeronimo Bran and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 16, § 10. Specifically, due to the work demands imposed by Defendant, Mr. Jeronimo Bran and other Aggrieved Employees were often unable to take a duty-free 30-minute meal period before the end of the fifth hour of work. As a result, their meal periods were often interrupted, late, short, or otherwise unlawful. In addition, they were not provided a second meal period when they worked shifts in excess 10.0 hours. As a result, Mr. Jeronimo Bran and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with … [an] order of the Industrial Welfare Commission … the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Mr. Jeronimo Bran and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Jeronimo Bran and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Jeronimo Bran and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 11. As alleged above, Defendant's rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, as a result of the work demands imposed by Defendant and the chastising of Plaintiff and other Aggrieved Employees for taking rest periods, Defendant did not authorize and permit rest periods. As a result, Mr. Jeronimo Bran and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Failure to Reimburse Necessary Expenditures

As described above, Defendant required Mr. Jeronimo Bran to purchase tools, including without limitation a hammer, prybar, and toolbox, to carry out work duties. Further, Defendant required Mr. Jeronimo Bran to use his personal cellular phone to discharge his duties. Accordingly, despite the non-exempt employees being required to purchase tools and use their personal cellular phone, Defendant did not reimburse Mr. Jeronimo Bran or other non-exempt employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 16, and Labor Code §§ 2802 and 2804 ("An employer shall indemnify his or her employees 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 obedience to the directions of the employer.") Mr. Jeronimo Bran and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

<u>Waiting Time Penalties</u>

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Jeronimo Bran and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Jeronimo Bran and other Aggrieved Employees was willful and, consequently, entitles Mr. Jeronimo Bran and other similarly Aggrieved Employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

<u>Wage Statement Violations</u>

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Jeronimo Bran and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, in violation of Labor Code § 226 *et seq*. Defendant's failure to furnish Mr. Jeronimo Bran and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Mr. Jeronimo Bran will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Jeronimo Bran's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Jeronimo Bran and other aggrieved employees the statutory minimum wage for all hours worked;

b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Jeronimo Bran and other aggrieved employees all overtime compensation earned;

c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Jeronimo Bran and other aggrieved employees;

d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Jeronimo Bran and other aggrieved employees;

e) Defendant violated Labor Code § 226 by failing to furnish Mr. Jeronimo Bran and other aggrieved employees with accurate and compliant itemized wage statements;

f) Defendant violated Labor Code §2802, by failing to reimburse Mr. Jeronimo Bran and other aggrieved employees for all necessary business expenditures incurred in the discharge of their duties;

g) Defendant violated Labor Code § 204 by failing to pay Mr. Jeronimo Bran and other aggrieved employees all earned wages at least twice during each calendar month; and

h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Jeronimo Bran and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC

Scott M. Lidman

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, CA 90245 El Segundo, California 90245.

On April 6, 2026, I served the foregoing document(s) described as:

Third Amended Class and Representative Action Complaint

on the interested party(ies) in this action as follows:

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[X] (BY E-MAIL OR ELECTRONIC TRANSMISSION) I caused the above-listed documents to be served upon the persons listed via e-mail or electronic transmission to their respective e-mail addresses. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[ ] (BY ELECTRONIC SERVICE) Electronic Filing through One Legal, an electronic filing system of the Orange County Superior Court, pursuant to Local Rules, which will send notification of such filing to the e-mail addresses denoted on the case's Electronic Service List.

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

Executed on April 6, 2026, at El Segundo, California.

Marlyn Ajanel