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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

SALVADOR FLORES LARIOS, on behalf of
the State of California and Aggrieved
Employees,

Plaintiff,

vs.

SERVICE MANAGEMENT SYSTEMS,
INC.; TOWNSHIP BUILDING SERVICES,
INC.; TOWNSHIP RETAIL SERVICES,
INC.,

Defendant.

Case No. **24CV092404**

**COMPLAINT FOR PENALTIES PURSUANT
TO SECTIONS 2699(a) AND (f) OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT**

DEMAND FOR JURY TRIAL

1 Plaintiff Salvador Flores Larios (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendants Service Management
5 Systems, Inc. (“SMS”), Township Building Services, Inc. (“Township Building”), and Township
6 Retail Services, Inc. (“Township Retail”) (Collectively “Defendants”) on behalf of the State of
7 California to collect penalties as a result of Defendants’ systematic violations of California labor law
8 with respect to Defendants’ non-exempt hourly workers in the State of California (the “Aggrieved
9 Employees”).

10 2. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers
11 employed by Defendants in California.¹

12 3. Plaintiff challenges Defendants’ policies and practices of: (1) failing to pay Plaintiff
13 and Aggrieved Employees minimum wages; (2) failing to pay Plaintiff and Aggrieved Employees
14 overtime wages; (3) failing to authorize and permit Plaintiff and Aggrieved Employees to take
15 compliant meal and rest periods to which they are entitled by law, and failing to pay premium
16 compensation for non-compliant meal periods; (4) failing to reimburse Plaintiff and Aggrieved
17 Employees for business expenditures; (5) failing to provide Plaintiff and Aggrieved Employees true
18 and accurate itemized wage statements; and (6) failing to pay Plaintiff and Aggrieved Employees all
19 wages owed upon separation from employment.

20 4. Plaintiff, on behalf of the State of California, seeks to recover penalties and reasonable
21 attorneys’ fees for these violations pursuant to Sections 2699(a) and (f) of the California Labor Code
22 Private Attorneys General Act (“PAGA”).

23 **PARTIES**

24 5. Plaintiff and Aggrieved Employees are all current and former non-exempt, hourly
25 employees of Service Management Systems, Inc., Township Building Services, Inc., and Township
26 Retail Services, Inc. in the State of California. The Aggrieved Employees work as hourly paid janitors,
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28 ¹ Although Plaintiff is a former employee, the Aggrieved Employees include current and former
employees. For ease of discussion, the allegations herein are made in the present tense.

1 custodians, and other hourly non-exempt employees in California.

2 6. Plaintiff Salvador Flores Larios is an individual over the age of eighteen and, at all
3 times relevant to this Complaint, was a resident of the State of California.

4 7. Plaintiff worked for Defendant as a Janitor in Modesto, California, from approximately
5 November 18, 2021 until February 26, 2024.

6 8. Plaintiff is informed, believes, and thereon alleges that Service Management Systems,
7 Inc. is a Tennessee corporation with its principal place of business located in Nashville, Tennessee.
8 SMS is registered to do business in the State of California and does business in the State of California.
9 SMS may be served with process by serving its registered agent, CT Corporation System, 330 N.
10 Brand Boulevard, Glendale, California.

11 9. Plaintiff is informed, believes, and thereon alleges that Township Building Services,
12 Inc. is a California corporation with its principal place of business located in Novato, California.
13 Township Building is registered to do business in the State of California and does business in the State
14 of California. Township Building may be served with process by serving its registered agent, Mark
15 Kobata, 1180 South Beverly Dr., Suite 302, Los Angeles, California.

16 10. Plaintiff is informed, believes, and thereon alleges that Township Retail Services, Inc.
17 is a California corporation with its principal place of business located in Novato, California. Township
18 Retail is registered to do business in the State of California and does business in the State of California.
19 Township Retail may be served with process by serving its registered agent, Mark Kobata, 8730
20 Wilshire Boulevard, Suite 210, Beverly Hills, California.

21 11. Plaintiff is informed, believes, and thereon alleges that Defendants employ hundreds
22 of hourly, non-exempt workers similarly situated to Plaintiff in California. Plaintiff is informed,
23 believes, and thereon alleges that, in California, Defendants own, operate, and/or manage locations in
24 this county. Plaintiff is informed, believes, and thereon alleges that Defendants employ Aggrieved
25 Employees, among other hourly employees, in this County and throughout California.

26 12. At all material times, Defendants do business under the laws of California, have places
27 of business in the State of California, including in this County, and employs Aggrieved Employees in
28 this County. Defendants are a “person” as defined in Cal. Lab. Code § 18 and Cal. Bus. & Prof. Code

1 § 17201. Defendants are also an “employer” as that term is used in the California Labor Code and the
2 IWC Wage Orders.

3 13. Defendants employ Plaintiff and Aggrieved Employees because Defendants, directly
4 or indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of
5 Plaintiff and Aggrieved Employees.

6 **SUBJECT MATTER JURISDICTION AND VENUE**

7 14. Venue is proper in this County pursuant to Cal. Code Civ. Proc. §§ 393 and/or 395.5.
8 Defendants conduct business and employ Aggrieved Employees in this County, and therefore the
9 liability and the cause, or some part of the cause, arose in this County.

10 15. This Court has jurisdictions over Plaintiff’s claims for penalties pursuant to the PAGA.
11 The Court also has jurisdiction over Defendants because they are a corporation authorized to do
12 business in the State of California, and because Defendants do in fact do business and employ workers
13 in the State of California.

14 **FACTUAL ALLEGATIONS**

15 16. Upon information and belief, Service Management Systems, Inc., based out of
16 Nashville, Tennessee, specializes in full housekeeping, maintenance, and survey and consultant
17 programs for high-traffic public facilities.

18 17. Upon information and belief, Township Building Services, Inc., based out of Novato,
19 California, operates full-service facility management, janitorial and engineering services to companies
20 throughout California.

21 18. Upon information and belief, Township Retail Services, Inc. based out of Novato,
22 California offers commercial cleaning and engineering services for national retail chains, grocery
23 stores, and regional retail chains.

24 19. Plaintiff worked for Defendants as a Janitor in Modesto, California, from
25 approximately November 18, 2021, to February 26, 2024. Although Plaintiff’s shifts varied in length,
26 Plaintiff usually worked approximately seven (7) to eight (8) hours or more per shift for approximately
27 four (4) to five (5) shifts per week.

28 20. Defendant pays Aggrieved Employees, including Plaintiff, on an hourly rate basis. The

1 plaintiff was compensated at an hourly rate of \$24.

2 21. Plaintiff is informed, believes, and thereon alleges that Defendants employ and have
3 employed hundreds of hourly, non-exempt workers similarly situated to Plaintiff in California.

4 22. Plaintiff is informed, believes, and based thereon, alleges that Aggrieved Employees are
5 employed by Defendants in a similar manner throughout the State of California, including in this
6 County, and perform work materially similar to Plaintiff.

7 23. Aggrieved Employees perform their jobs under Defendants' supervision using materials
8 and technology approved and supplied by Defendants.

9 24. Aggrieved Employees are required to follow and abide by Defendants' common work,
10 time, and pay policies and procedures in the performance of their jobs.

11 25. At the end of each pay period, Aggrieved Employees receive wages from Defendants
12 that are determined by common systems and methods that Defendants select and control.

13 26. Plaintiff is informed, believes, and thereon alleges that Defendants' policies and
14 practices have at all relevant times been similar for Plaintiff and Aggrieved Employees, regardless of
15 location in the State of California. Upon information and belief, Aggrieved Employees worked more
16 than eight (8) hours per day and more than forty (40) hours in at least one workweek during the one
17 year before this Complaint was filed.

18 27. Defendants deny Plaintiff and Aggrieved Employees proper compensation for all hours
19 worked, including overtime wages. In particular, Plaintiff and Aggrieved Employees are required to
20 perform work off-the-clock and without compensation. This includes but is not limited to Defendants
21 requiring Plaintiff and Aggrieved Employees to arrive to job site 15-minutes prior to the start of their
22 scheduled shift. The Plaintiff and Aggrieved Employees are required prior to the start of their
23 scheduled shift in order to prepare the equipment to be used to complete daily tasks. Additionally,
24 Defendants require Plaintiff and Aggrieved Employees to continue working after the conclusion of
25 their scheduled shift. Defendants do not compensate the Plaintiff and Aggrieved Employees for this
26 time worked. Instead, Defendants begin to pay Plaintiff and Aggrieved at the start of their scheduled
27 shift and conclude to pay for time worked at the end of their scheduled shift rather than the actual time
28 worked. Plaintiff and Aggrieved Employees are therefore denied compensation for all hours worked,

1 including overtime wages, in violation of the California Labor Code.

2 28. Plaintiff is informed, believes, and thereon alleges that all non-exempt hourly
3 employees of Defendants are subject to the same or similar unlawful timekeeping and compensation
4 policies and practices.

5 29. As a result of this policy and/or practices, Plaintiff and Aggrieved Employees are not
6 paid for all overtime hours in violation of Cal. Lab. Code section 1194 and Wage Order 5.

7 30. Defendants regularly fail to provide Plaintiff and Aggrieved Employees with timely
8 and compliant meal periods. Defendants' policies, practices, and procedures require Plaintiff and
9 Aggrieved Employees to clock out for meal breaks prior to their fifth hour of work but continue
10 working for the benefit of Defendants. Defendants also required Plaintiffs and Aggrieved Employees
11 to enter information on timesheets that reflect timely meal periods despite that being inaccurate. As a
12 result, Aggrieved Employees are not provided with duty-free, uninterrupted, and timely thirty-minute
13 meal periods by the end of the fifth hour of work, nor do they receive the proper premium payments
14 for non-compliant meal breaks.

15 31. Further, for each day Plaintiff and Aggrieved Employees work longer shifts of ten hours
16 or more, Defendant denies Plaintiff and Aggrieved Employees a duty-free, uninterrupted, and timely
17 second 30-minute meal break by the end of the tenth hour of work. Yet again, Plaintiff and Aggrieved
18 Employees do not receive full premium payments for these missed second meal breaks.

19 32. Plaintiff is informed, believes, and thereon alleges that these meal period policies and
20 practices have at all relevant times been similar for Plaintiff and Aggrieved Employees regardless of
21 location and assignment in California.

22 33. Plaintiff is informed, believes, and thereon alleges that all Aggrieved Employees of
23 Defendant are subject to the same or similar unlawful compensation policies and practices.

24 34. As a matter of common policy and/or practice, Defendants fail to provide Plaintiffs and
25 Aggrieved Employees reimbursement for all necessary business expenditures. Defendants
26 systematically require Plaintiffs and Aggrieved Employees to utilize their own personal cell phones
27 for communication between Aggrieved Employees and Defendants throughout their shifts. Defendants
28 do not reimburse Plaintiffs and Class Members for such expenses. Thus, Defendant does not reimburse

1 Plaintiff and Aggrieved Employees for any business expenditures, even though it should be fully
2 reimbursed under California law.

3 35. As a result of the aforementioned violations, Plaintiffs and Aggrieved Employees are
4 provided with untrue and inaccurate wage statements as such statements do not reflect the correct
5 amount of gross and net wages earned, including overtime compensations and premium pay for non-
6 compliant meal and rest periods, nor the correct total hours worked by Plaintiffs and Aggrieved
7 Employees. Defendants' failure to record all hours worked also results in a failure to provide
8 Aggrieved Employees, including Plaintiff, accurate itemized wage statements as required by
9 California law. The wage statements Defendants provide are not accurate because they do not reflect
10 payment for all hours worked, including minimum wage and overtime compensation, nor do they
11 include premium pay for non-compliant meal and rest periods in violation of California law.

12 36. Further, Defendants do not provide Plaintiff and Aggrieved Employees who are former
13 workers of Defendants with full payment of all wages owed upon separation from employment. At the
14 time their employment ends, Aggrieved Employees are owed wages for all time worked, including
15 overtime, premium pay for non-compliant meal/rest periods, and business reimbursements, whether
16 their termination was voluntary or involuntary; yet Defendants have failed to provide Plaintiff and
17 Aggrieved Employees with such payments within the required time period. As a result, and pursuant
18 to the California Labor Code, Defendants are subject to waiting time penalties.

19 37. Plaintiff is informed, believes, and thereon alleges that Defendants' unlawful conduct
20 has been widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendants'
21 operations in the State of California.

22 **FIRST CAUSE OF ACTION**

23 **Penalties Pursuant to Cal. Lab. Code § 2699(a)**

24 **(On Behalf of the State of California and Aggrieved Employees)**

25 38. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
26 herein.

27 39. Cal. Lab. Code § 2699(a) provides:
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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 to other current or former employees.

40. Cal. Lab. Code §§ 201 and 202 require employers to immediately pay wages earned and unpaid to an employee that is discharged, and to pay an employee who quits within 72 hours after he or she quits, at the latest.

41. Cal. Lab. Code § 203 provides, in relevant part:
If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employees shall continue as a penalty from the due date thereof at the same rate paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

42. Cal. Lab. Code § 256 provides: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days’ pay as waiting time under the terms of Section 203.”

43. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by Defendants, as alleged above, to timely pay all wages owed to Plaintiff and the Aggrieved Employees in compliance with Cal. Lab. Code §§ 201-202 and in the amounts established by Cal. Lab. Code §§ 203 and 256.

44. Cal. Lab. Code § 226(a) provides:
Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

45. Cal. Lab. Code § 226(e)(1) provides, in relevant part:

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

46. Cal. Lab. Code § 226.3 provides:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

47. Plaintiff also seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized wage statement in compliance with Cal. Lab. Code § 226(a) in the amounts established by Cal. Lab. Code § 226.3. In addition, Plaintiff seeks penalties in the amount established by Cal. Lab. Code § 226(e)(1).

48. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on July 15, 2024, Plaintiff provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. On July 15, 2024, Plaintiff mailed Defendants a copy of such notice via certified mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

49. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and himself as set forth in Cal. Lab. Code § 2699.

50. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees and costs as set forth below.

51. Wherefore, Plaintiff requests relief as hereinafter provided.

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1 60. Cal. Lab. Code § 510 provides, in relevant part:

2 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one
3 workday and any work in excess of 40 hours in any one workweek and the first eight
4 hours worked on the seventh day of work in any one workweek shall be compensated
5 at the rate of no less than one and one-half times the regular rate of pay for an employee.
6 Any work in excess of 12 hours in one day shall be compensated at the rate of no less
7 than twice the regular rate of pay for an employee. In addition, any work in excess of
8 eight hours on any seventh day of a workweek shall be compensated at the rate of no
9 less than twice the regular rate of pay of an employee. Nothing in this section requires
10 an employer to combine more than one rate of overtime compensation in order to
11 calculate the amount to be paid to an employee for any hour of overtime work.

12 61. Cal. Lab. Code § 1197 provides:

13 The minimum wage for employees fixed by the commission or by any applicable state
14 or local law, is the minimum wage to be paid to employees, and the payment of a lower
15 wage than the minimum so fixed is unlawful. This section does not change the
16 applicability of local minimum wage laws to any entity.

17 62. Cal. Lab. Code § 1194 provides, in relevant part:

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

23 63. Cal. Lab. Code § 2802(a) provides as follows:

24 An employer shall indemnify his or her employee for all necessary expenditures or
25 losses incurred by the employee in direct consequence of the discharge of his or her
26 duties, or of his or her obedience to the directions of the employer, even though
27 unlawful, unless the employee, at the time of obeying the directions, believed them to
28 be unlawful. Defendants' policies and practices result in payment of wage and overtime
29 violations, and meal and rest periods violations.

30 64. Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 5-2001 require Defendants to
31 authorize, permit, and/or make available timely and compliant meal and rest periods to its employees.
32 Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 5-2001 prohibit employers from employing
33 an employee for more than five hours without a meal period of not less than thirty minutes, and from
34 employing an employee more than ten hours per day without providing the employee with a second
35 meal period of not less than thirty minutes. Unless the employee is relieved of all duty during the
36 thirty-minute meal period and ten-minute rest period, the employee is considered "on duty" and the
37 meal period is counted as time worked under the applicable wage orders.

65. Defendants' policies and practices result in payment of wage and overtime violations, and meal and rest periods violations.

66. To the extent than any violation alleged herein does not carry penalties under Cal. Lab. Code § 2699(a), Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved Employee was aggrieved, in the amounts established by Cal. Lab. Code § 2699(f). Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and Aggrieved Employees for violations of Cal. Lab. Code provisions including, but not limited to, Cal. Lab. Code §§ 204, 221, 225.5, 226.7, 510, 512, 1194, 1197, 1198, 2802(a), IWC Wage Order 5-2001, and any other violation alleged herein which does not carry penalties under Cal. Lab. Code § 2699(a).

67. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on July 15, 2024, Plaintiff provided the Labor and Workforce Development Agency ("LWDA") with notice of his intention to file this claim. On July 15, 2024, Plaintiff mailed Defendant a copy of such notice via certified mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

68. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

69. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

70. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For the Court to declare, adjudge, and decree that Defendants violated the Cal. Lab. Code as alleged herein;
2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided under the PAGA;
3. For an award of reasonable attorneys' fees as provided by the Cal. Lab. Code §

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- 2699(g)(1); Cal. Code Civ. Proc. § 1021.5; and/or any other applicable law;
4. For all costs of suit; and
5. For such other and further relief as this Court deems just and proper.

Date: September 19, 2024

Respectfully Submitted,



Carolyn H. Cottrell
Ori Edelstein
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

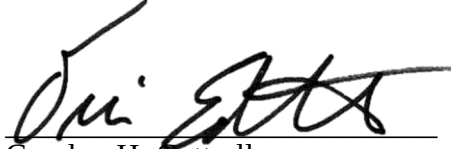
Attorneys for Plaintiff, on behalf of the State of California and Aggrieved Employees

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Date: September 19, 2024

Respectfully Submitted,



Carolyn H. Cottrell

Ori Edelstein

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

Attorneys for Plaintiff, on behalf of the State of California and Aggrieved Employees