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Superior Court of California
County of Fresno
By: Jeweline Allison, Deputy

Attorneys for PLAINTIFF,
ROQUE VALENCIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

ROQUE VALENCIA, an individual, and in a
representative capacity on behalf of the State of
California and other Aggrieved Employees,

Case No. 25CECG00192

COMPLAINT FOR DAMAGES

PLAINTIFF,

vs.

BROWNING CONTRACTORS, INC., a
California corporation, RANDY BROWNING,
an individual, CYNTHIA CANTU, an
individual, and DOES 1-15

DEMAND FOR JURY TRIAL

Defendants.

PLAINTIFF ROQUE VALENCIA (“PLAINTIFF”), an individual, on behalf of himself and
in a representative capacity on behalf of the State of California and other AGGRIEVED
EMPLOYEES, defined below, against BROWNING CONTRACTORS, INC., a California
corporation, RANDY BROWNING, an individual, CYNTHIA CANTU, an individual, and DOES
1-15 (“Defendant DOES”) (collectively “DEFENDANTS”), alleges on information and belief,
except for his own acts and knowledge which are based on personal knowledge, the following:

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I. INTRODUCTION

1. PLAINTIFF brings this action individually and as a representative action on behalf of the State of California and pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of himself and other current and former AGGRIEVED EMPLOYEES of DEFENDANTS for engaging in a pattern and practice of wage and hour violations under the California Labor Code.

2. PLAINTIFF seeks recovery of all individual damages in addition to all civil penalties permitted pursuant to California Labor Code § 2699, *et seq.*

3. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS decreased their employment-related costs by systematically violating California wage and hour laws including, *inter alia*:

- a. Failure to provide rest periods;
 - b. Failure to provide meal periods;
 - c. Failure to pay minimum wages;
 - d. Failure to pay overtime wages;
 - e. Failure to provide accurate itemized wage statements;
 - f. Failure to reimburse for required business expenses;
4. Failure to maintain accurate records;

5. PLAINTIFF reserves the right to name additional representatives throughout the State of California.

II. PARTIES

6. PLAINTIFF ROQUE VALENCIA (“PLAINTIFF”), an individual, has resided, and at all times mentioned in this Complaint, continues to reside in Fresno County.

7. DEFENDANT BROWNING CONTRACTORS, INC., a California corporation, registered with the California Secretary of State as entity No. 1938927, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

1 8. DEFENDANT RANDY BROWNING, an individual, is, on information and belief,
2 a California resident and does business in California. DEFENDANT RANDY BROWNING is the
3 Chief Executive Officer, and Chief Financial Officer of DEFENDANT BROWNING
4 CONTRACTORS, INC. On information and belief, at all relevant times, DEFENDANT RANDY
5 BROWNING has been an owner, director, officer, or managing agent of DEFENDANT
6 BROWNING CONTRACTORS, INC.

7 9. DEFENDANT CYNTHIA CANTU, an individual, is, on information and belief, a
8 California resident and does business in California. DEFENDANT CYNTHIA CANTU, is the
9 Secretary of DEFENDANT BROWNING CONTRACTORS, INC. On information and belief, at
10 all relevant times, DEFENDANT CYNTHIA CANTU, has been an owner, director, officer, or
11 managing agent of DEFENDANT BROWNING CONTRACTORS, INC.,

12 10. Defendant DOES 1-15 ("Defendant DOES") are persons and/or entities that at all
13 relevant times mentioned herein conducted and continue to conduct substantial and regular business
14 throughout California.

15 11. Each of the fictitiously named DEFENDANTS participated in the acts alleged in this
16 Complaint. The true names and capacities, whether individual, corporate, subsidiary, partnership,
17 associate, or otherwise of DEFENDANT DOES 1 through 15, inclusive, are presently unknown to
18 PLAINTIFF who therefore sues these DEFENDANTS by such fictitious names pursuant to Cal.
19 Civ. Proc. Code. § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true
20 names and capacities of DOES 1 through 15, inclusive, when they are ascertained. PLAINTIFF is
21 informed and believes, and based upon that information and belief alleges, that the DEFENDANTS
22 named in this Complaint, including DOES 1 through 15, inclusive (hereinafter collectively
23 "DEFENDANTS"), are responsible in some manner for one or more of the events and happenings
24 that proximately caused the injuries and damages hereinafter alleged.

25 12. DEFENDANTS own, operate, and/or manage a construction management services
26 company performing work in Fresno County and the surrounding areas.

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1 13. DEFENDANTS have employed PLAINTIFF since approximately January 2023
2 through the present as a Safety Inspector paid on an hourly basis. At all times, DEFENDANTS paid
3 PLAINTIFF as an hourly, non-exempt employee.

4 **III. PRIVATE ATTORNEYS GENERAL ACT AND DEFENDANTS' LIABILITY**

5 14. PLAINTIFF brings the representative action on behalf of the State of California and
6 on behalf of all hourly non-exempt individuals who are or previously were employed by
7 DEFENDANTS, including those that may be misclassified as independent contractors and
8 performed work for DEFENDANTS, in California who suffered one or more Labor Code violations
9 enumerated in Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) between
10 October 31, 2023, and the present (“PAGA PERIOD”).

11 15. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code
12 § 2699(c) because he was employed by DEFENDANTS and suffered each of alleged Labor Code
13 violations committed by DEFENDANT.

14 16. PLAINTIFF and all other AGGRIEVED EMPLOYEES are, and at all relevant times
15 were, employees of DEFENDANTS, within the meanings set forth in the California Labor Code
16 and the applicable Industrial Welfare Commission Wage Order.

17 17. The Private Attorney General Act (“PAGA”) permits an aggrieved employee to
18 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* §
19 2699(a).)

20 18. Section 558 of the California Labor Code provides that “any employer *or other*
21 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
22 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
23 Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).)

24 19. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person*
25 acting either individually or as an officer, agent, or employee of another person, who pays or causes
26 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
27 or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

1 20. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held
2 that a corporate employer's owners, officers and directors, are subject to civil penalties for the
3 employer's failure to pay appropriate wages to its employees, and, since liability under either 558
4 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are
5 necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v.*
6 *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
7 Cal.App.4th 1112, 1145-1146.

8 21. Section 558.1 of the California Labor Code provides that "any employer *or other*
9 *person acting* on behalf of an employer, who violates, *or causes to be violated*, any provision
10 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
11 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802,
12 may be held liable as the employer for such violation." (*Lab. Code* § 558.1(a).) Section 558.1(b)
13 identifies the "other person acting on behalf of an employer" includes "owner, director, officer, or
14 managing agent" of the employer. (*Lab. Code* § 558.1(b).)

15 22. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS and
16 each of them, are subject to civil penalties for their failure to pay PLAINTIFF and other
17 AGGRIEVED EMPLOYEES the appropriate wages as complained of herein and proximately
18 caused the complaints, injuries, and damages alleged herein.

19 23. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS and
20 each of them, are subject to liability for their failure to pay PLAINTIFF and other AGGRIEVED
21 EMPLOYEES the appropriate wages as complained of herein and proximately caused the
22 complaints, injuries, and damages alleged herein.

23 24. DEFENDANTS have been personally involved in the purported violations and/or
24 had sufficient participation in the employer, such that DEFENDANTS may be deemed to have
25 contributed to, and "caused" the labor code violations alleged.

26 25. At all relevant times, each DEFENDANT, whether named or fictitious, was the
27 agent, employee or other person acting on behalf of each other DEFENDANT, and, in participating
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1 in the acts alleged in this Complaint, acted within the scope of such agency or employment and
2 ratified the acts of the other.

3 26. Each DEFENDANT, whether named or fictitious, exercised control over
4 PLAINTIFF'S and other AGGRIEVED EMPLOYEES' wages, working hours, and/or working
5 conditions.

6 27. Each DEFENDANT, whether named or fictitious, acted in all respects pertinent to
7 this action as the agent of the other DEFENDANT, carried out a joint scheme, business plan or
8 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

9 **IV. JURISDICTION AND VENUE**

10 28. This Court has jurisdiction over this Action pursuant to the California Code of Civil
11 Procedure, Section 410.10.

12 29. Venue is proper in this Court pursuant to California Code of Civil Procedure,
13 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and
14 DEFENDANTS (i) currently maintain and at all relevant times-maintained offices and facilities in
15 this County, and (ii) committed the wrongful conduct herein alleged in this County against
16 PLAINTIFF.

17 **V. FACTUAL ALLEGATIONS**

18 **A. Rest Period Violations**

19 30. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
20 work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of
21 DEFENDANTS' policies and practices.

22 31. Further, for the same reasons PLAINTIFF and other AGGRIEVED EMPLOYEES
23 were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
24 (2) to four (4) hours, these same employees were denied a first and second rest period of at least ten
25 (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second, and
26 third rest period for shifts worked of between ten (10) hours to fourteen (14) hours.

27 32. Specifically, despite DEFENDANTS scheduling ten (10) minute rest periods for
28 employees, DEFENDANTS failed to provide such legally required rest periods to PLAINTIFF and

1 other AGGRIEVED EMPLOYEES. DEFENDANTS' manager required PLAINTIFF and other
2 AGGRIEVED EMPLOYEES to perform her personal errands during these employees' meal and
3 rest periods like going to her house and letting her dogs out, assemble or dismantling home furniture,
4 and other personal errands like configuring payments for her personal bills and expenses.
5 DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to either postpone
6 or forfeit their rest periods as result of DEFENDANTS' practices.

7 33. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with
8 one-hour wages *in lieu* thereof, and as a result, PLAINTIFF and other AGGRIEVED EMPLOYEES
9 were denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

10 34. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
11 required to provide rest periods to PLAINTIFF and other AGGRIEVED EMPLOYEES per every
12 four (4) hours worked or major fraction thereof or provide the employee one (1) hour of pay at the
13 employee's regular rate of compensation for each workday the rest period is not provided. During
14 the entirety of PLAINTIFF'S employment and the PAGA Period, DEFENDANTS required
15 PLAINTIFF and other AGGRIEVED EMPLOYEES to work through rest periods without paying
16 them in accordance with Industrial Wage Orders. As a result, PLAINTIFF and other AGGRIEVED
17 EMPLOYEES forfeited their regular wages by working without compensation at the applicable
18 wage and rates. DEFENDANTS had, and may continue to practice, a uniform policy to not pay
19 PLAINTIFF and other AGGRIEVED EMPLOYEES all rest premiums owed.

20 B. Meal Period Violations

21 35. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
22 work during the meal break during what is scheduled to be PLAINTIFF'S and other AGGRIEVED
23 EMPLOYEES' off-duty meal period DEFENDANTS' policies and practices.

24 36. Specifically and similar to rest periods, DEFENDANTS' managers directed
25 PLAINTIFF and other AGGRIEVED EMPLOYEES to either drive to other work sites to complete
26 his job duties or perform personal errands for one of DEFENDANTS' managers. DEFENDANTS'
27 manager directed PLAINTIFF and other AGGRIEVED EMPLOYEES to go to her house and let
28 out her dogs, assemble or dismantle home furniture or other personal errands like configuring

1 payments for her personal bills and expenses.

2 37. DEFENDANTS were alerted to PLAINTIFF'S inability to take his meal periods
3 through his timecards and asked PLAINTIFF how and why this was occurring. PLAINTIFF
4 explained it was because DEFENDANTS Managers instructed PLAINTIFF to drive to various job
5 sites and he is unable to complete the work needed and take his meal period. At this time,
6 DEFENDANTS started manipulating PLAINTIFF'S and, under information and belief, other
7 AGGRIEVED EMPLOYEES' timecards to reflect timely meal periods.

8 38. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
9 required to provide meal periods of not less than thirty (30) minutes to PLANITIFF and other
10 AGGRIEVED EMPLOYEES for each work period of more than five (5) hours, except when that
11 work period is not more than six (6) and validly waived or provide one (1) hour of pay at the
12 employee's regular rate of compensation.

13 39. DEFENDANTS required PLANITIFF and other AGGRIEVED EMPLOYEES to
14 work during what was scheduled to be off-duty meal period. Specifically, DEFENDANTS required
15 PLAINTIFF and other AGGRIEVED EMPLOYEES to remain on the premises and assist their
16 patient during what is scheduled to be an uninterrupted meal period.

17 40. As a result of DEFENDANTS' policies and practices, PLAINTIFF and other
18 AGGRIEVED EMPLOYEES were unable to take thirty (30) minute off-duty meal periods and were
19 not fully relieved of duty for their meal period. Therefore, PLANITIFF and other AGGRIEVED
20 EMPLOYEES forfeited their meal periods without compensation at the applicable wage and rates.
21 DEFENDANTS had, and may continue to practice, a uniform policy to not pay PLANITIFF and
22 other AGGRIEVED EMPLOYEES meal premiums.

23 41. PLAINTIFF and other AGGRIEVED EMPLOYEES were required to perform work
24 as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a
25 meal break. The nature of the work performed by AGGRIEVED EMPLOYEES do not qualify for
26 limited and narrowly construed "on-duty" meal period exception. DEFENDANTS therefore
27 required PLAINTIFF and other AGGRIEVED EMPLOYEES to forfeit meal breaks without
28 additional compensation and in accordance with DEFENDANTS' policies and practices.

1 C. Unlawful Rounding Practices

2 42. During the PAGA PERIOD and PLAINTIFF'S employment, DEFENDANTS did
3 not have an immutable timekeeping system to accurately record and pay PLAINTIFF and other
4 AGGRIEVED EMPLOYEES for the actual time PLAINTIFF and other AGGRIEVED
5 EMPLOYEES worked each day, including regular time, overtime hours, sick pay, meal and rest
6 breaks.

7 43. Specifically, DEFENDANTS timekeeping system rounded PLAINTIFF'S and
8 other AGGRIEVED EMPLOYEES' time entries and undercompensated employees for all time
9 worked. For instance, PLAINTIFF detailed how when he clocked in at 6:07 A.M., his timecard
10 reflected a clock in of 6:10 A.M. DEFENDANTS' timekeeping system rounded PLAINTIFF and
11 other AGGRIEVED EMPLOYEES' time resulting in a systematic underpayment of wages.

12 44. As a result, DEFENDANTS were able to and did in fact unlawfully, and
13 unilaterally round the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and
14 the other AGGRIEVED EMPLOYEES in order to avoid paying these employees for all their time
15 worked, including the applicable overtime compensation for overtime worked. As a result,
16 PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited compensation for their time
17 worked by working without their time being accurately recorded and without compensation at the
18 applicable overtime rates.

19 D. Timekeeping Manipulation

20 45. DEFENDANTS unlawfully and unilaterally altered the time recorded in
21 DEFENDANTS' timekeeping system for PLAINTIFF and other AGGRIEVED EMPLOYEES in
22 order to avoid paying these employees for all hours worked, applicable overtime compensation,
23 applicable sick pay, missed meal breaks and missed rest break.

24 46. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES, forfeited time
25 worked by working without their time being accurately recorded and without compensation at the
26 applicable pay rates.

27 47. The mutability of DEFENDANTS' timekeeping system allowed DEFENDANTS
28 to alter employee time records by recording fictitious thirty (30) minute meal breaks in

1 DEFENDANTS' timekeeping system so as to create the appearance that PLAINTIFF and other
2 AGGRIEVED EMPLOYEES clocked out for thirty (30) minute meal break when in fact the
3 employees were not at all times provided an off-duty meal break. This practice is a direct result of
4 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
5 minute off-duty meal breaks each day or otherwise refusal to compensate them for missed meal
6 breaks.

7 48. As a result, PLAINTIFF and the other AGGRIEVED EMPLOYEES forfeited
8 wages due them for all hours worked at DEFENDANTS' direction, control and benefit of
9 DEFENDANTS. DEFENDANTS' uniform policy and practice to not pay PLAINTIFF and other
10 AGGRIEVED EMPLOYEES wages for all hours worked in accordance with applicable law is
11 evidenced by DEFENDANTS' business records.

12 E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

13 49. During PLAINTIFF'S employment and the PAGA Period, DEFENDANTS failed to
14 accurately pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all hours worked.

15 50. DEFENDANTS' manager directed PLAINTIFF and other AGGRIEVED
16 EMPLOYEES to complete additional work and personal errands after these employees clocked out
17 for their shift.

18 51. DEFENDANTS directed and directly benefited from the uncompensated off-the-
19 clock work performed by PLAINTIFF and other AGGRIEVED EMPLOYEES.

20 52. DEFENDANTS controlled the work schedules, duties, protocols, applications,
21 assignments, and employment conditions of PLAINTIFF and other AGGRIEVED EMPLOYEES.

22 53. DEFENDANTS were able to track the amount of time PLAINTIFF and other
23 AGGRIEVED EMPLOYEES spent working however, DEFENDANTS failed to document, track,
24 and pay PLAINTIFF and other AGGRIEVED EMPLOYEES all wages earned and owed for all the
25 work they performed, including during off-the-clock work. From time-to-time this may have
26 included overtime wages.

27 54. PLAINTIFF and other AGGRIEVED EMPLOYEES were non-exempt employees,
28 subject to the requirements of the California Labor Code.

1 55. DEFENDANTS' policies and practices deprived PLAINTIFF and other
2 AGGRIEVED EMPLOYEES of all regular wages and from time to time, overtime wages owed for
3 the off-the-clock work activities.

4 56. DEFENDANTS knew or should have known that PLAINTIFF and other
5 AGGRIEVED EMPLOYEES' off-the-clock work was compensable under the law.

6 57. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited wages due
7 them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent while
8 off-the-clock. DEFENDANTS have a uniform policy and practice to not pay PLAINTIFF and other
9 AGGRIEVED EMPLOYEES wages for all hours worked in accordance with applicable law.

10 58. Moreover, as a result, DEFENDANTS provided PLAINTIFF and other
11 AGGRIEVED EMPLOYEES with a paystub that failed to comply with Cal. Lab. Code § 226 and
12 did not maintain accurate payroll and timekeeping records.

13 F. DEFENDANTS' Failure to Pay Prevailing Wages

14 59. DEFENDANTS required PLAINTIFF and under information and belief other
15 AGGRIEVED EMPLOYEES to perform work at job sites that were under contract with the
16 government and entitled PLAINTIFF and other AGGRIEVED EMPLOYEES to the applicable
17 prevailing wages.

18 60. However, after PLAINTIFF performed worked at these job sites, DEFENDANTS
19 directed PLAINTIFF and other AGGRIEVED EMPLOYEES to not track the time worked at these
20 job sites and prevented PLAINTIFF and other AGGRIEVED EMPLOYEES from being
21 compensated at the appropriate prevailing wage.

22 61. DEFENDANTS continued to direct PLAINTIFF and other AGGRIEVED
23 EMPLOYEES to drive by the prevailing wage job sites and visually perform safety checks but
24 prohibited PLAINTIFF and other AGGRIEVED EMPLOYEES from clocking in under the
25 appropriate project and only compensated PLAINTIFF and other AGGRIEVED EMPLOYEES the
26 typical hourly rate.

27 62. These job sites include Tresoro Viejo in Madera and Brandhaven in Fresno.

28 63. PLAINTIFF and other AGGRIEVED EMPLOYEES were entitled to prevailing

1 wages for the work performed at each of these job sites. DEFENDANTS failed to accurately
2 compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for the work performed at
3 prevailing wage job sites and undercompensated these employees to their detriment.

4 G. Failure to Reimburse

5 64. DEFENDANTS failed to indemnify PLAINTIFF and other AGGRIEVED
6 EMPLOYEES for use of their personal vehicles as a direct consequence of discharging work duties.

7 65. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
8 use their personal vehicle when DEFENDANTS' agents and managers directed these employees to
9 perform their personal errands and did not reimburse these employees for the mileage or gas.

10 66. DEFENDANTS shifted the costs associated with running a business onto
11 PLAINTIFF and other AGGRIEVED EMPLOYEES.

12 H. Inaccurate Itemized Wage Statements

13 67. California Labor Code Section 226 requires an employer to furnish its employees an
14 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3)
15 the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
16 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
17 employee and only the last four digits of the employee's social security number or an employee
18 identification number other than a social security number, (8) the name and address of the legal
19 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee.

21 68. During PLAINTIFF'S employment and during the PAGA period, when PLAINTIFF
22 and other AGGRIEVED EMPLOYEES were not paid for all time worked, including as a result of
23 DEFENDANTS' rounding practices or at prevailing wage job sites, or were not paid for meal and
24 rest period premiums, were not paid for all hours worked, did not provide total hours work, or
25 applicable hourly rates in effect, DEFENDANTS failed to provide PLAINTIFF and other
26 AGGRIEVED EMPLOYEES with complete and accurate wage statements. DEFENDANTS'
27 paystubs failed to show, among other things, the total hours worked and all applicable hourly rates
28 in effect during the pay period and the corresponding amount of time worked at each hourly rate,

1 correct rates of pay for penalty payments or missed meal and rest periods.

2 69. DEFENDANTS failed to keep, maintain, and store accurate payroll records in
3 violation of Cal. Lab. Code §1174.5 and failed to provide wage statements that comply with Cal.
4 Lab. Code § 226. Further, DEFENDANTS' violations are knowing and intentional, and were not
5 isolated or due to an unintentional payroll error due to clerical or inadvertent mistake.

6 70. PLAINTIFF and other AGGRIEVED EMPLOYEES suffered damages as a result of
7 DEFENDANTS' aforementioned violation because they could not promptly and easily determine
8 from the wage statement alone the applicable hourly rate and the corresponding number of hours
9 worked at the applicable hourly rate for this remuneration.

10 I. DEFENDANTS' Sexual Harassment and Retaliation

11 71. DEFENDANT CANTU subjected PLAINTIFF and other employees, specifically
12 PLAINTIFF's supervisor, to repeated sexual harassment as a result of his status as a man.

13 72. DEFENDANT CANTU'S sexual harassment of PLAINTIFF started immediately
14 upon his hiring. When PLAINTIFF met DEFENDANT CANTU upon his hiring, she told
15 PLAINTIFF she was "looking for" a "bald Mexican with a goatee." PLAINTIFF, who is a bald man
16 with a goatee and of Mexican decent, immediately felt uncomfortable and like DEFENDANT
17 CANTU'S comment was sexually charged.

18 73. DEFENDANT CANTU started to build a friendly relationship with PLAINTIFF and
19 upon feeling secure in their friendly work relationship, started making more aggressive sexual
20 comments toward PLAINTIFF and PLAINTIFF'S supervisor.

21 74. PLAINTIFF met with DEFENDANT CANTU during the week and during these
22 meetings, DEFENDANT CANTU made comments about how PLAINTIFF was sexually her
23 "type." DEFENDANT CANTU "liked" bald Mexicans with a goatee. DEFENDANT CANTU
24 would go on and begin telling PLAINTIFF about her sexual desires.

25 75. DEFENDANT CANTU told PLAINTIFF variations of the same comments each
26 meeting such as how she "wants a bald Mexican with a goatee" and how "it's been a long time
27 [since she had sex]" and how she "needs dick." Each time, DEFENDANT CANTU'S comments
28 were unprovoked, inappropriate, unwanted, and made PLAINTIFF extremely uncomfortable.

1 DEFENDANT CANTU subjected PLAINTIFF to these comments on a weekly, and near-daily,
2 basis.

3 76. DEFENDANT CANTU had a kink to exert her professional power and control over
4 PLAINTIFF and degrade and embarrass PLAINTIFF. DEFENDANT CANTU used her position
5 and directed and required PLAINTIFF perform personal errands for her. This included directing
6 PLAINTIFF to go to her house to let her dogs out to use the restroom, assemble home furniture,
7 dismantle home furniture, or configure payments for her personal bills and expenses.

8 77. DEFENDANT CANTU went so far as to direct and require PLAINTIFF to go to
9 DEFENDANT CANTU'S home during work hours and pick up her dogs' feces.

10 78. DEFENDANT CANTU humiliated PLAINTIFF as part of her sexual harassment.

11 79. DEFENDANT CANTU disclosed to PLAINTIFF she was firing other employees
12 because of her personal issues with them and not because of any poor performance or other work-
13 related issues. PLAINTIFF understood DEFENDANT CANTU made PLAINTIFF's job conditions
14 and terms of employment contingent on PLAINTIFF'S acceptance DEFENDANT CANTU'S
15 sexual harassment. PLAINTIFF knew reporting DEFENDANT CANTU's sexually explicit
16 behavior would lead to her termination for a "personal issue" DEFENDANT CANTU had with
17 PLAINTIFF. As a result, PLAINTIFF had no reasonable outlet to report DEFENDANT CANTU'S
18 sexual harassment as a result of her position within the company and her control over the terms and
19 conditions of his employment.

20 80. DEFENDANT CANTU's sexual harassment of PLAINTIFF and use of her position
21 to require PLAINTIFF to go to her residence during work hours caused PLAINTIFF's wife to
22 question whether PLAINTIFF was having an affair because DEFENDANT CANTU required
23 PLAINTIFF spend so much time at her private residence during work hours.

24 81. After PLAINTIFF'S supervisor filed a lawsuit against DEFENDANT for sexual
25 harassment, DEFENDANT CANTU demanded PLAINTIFF sign a confidentiality agreement that
26 prohibited PLAINTIFF from discussing the working conditions with his coworker and his attorney
27 or in the pursuit of his coworker's legal proceedings. When DEFENDANT CANTU presented the
28 agreement to PLAINTIFF, she told him when he returned from leave for the birth of his child,

1 DEFENDANTS will assign him to the streetlight division, a position PLAINTIFF had previously
2 told DEFENDANTS he desired and would like to be assigned to. PLAINTIFF'S then position with
3 the company performed work until rain delayed the project or otherwise made it unsafe, whereas
4 the streetlight position does not stop work when it rains and therefore allows PLAINTIFF to work
5 more hours.

6 82. DEFENDANT CANTU represented to PLAINTIFF that he would start the streetlight
7 position on the Monday he returned to work. PLAINTIFF accepted this new position but refused to
8 sign DEFENDANT CANTU'S confidentiality agreement.

9 83. However, when PLAINTIFF returned to work, DEFENDANTS informed
10 PLAINTIFF he was no longer being moved to a streetlight position and would be assigned to the
11 Wet Side team instead.

12 84. DEFENDANTS did not assign PLAINTIFF to Streetlight Department after his
13 refusal to sign the confidentiality agreement prohibiting him from speaking to and discussing
14 working conditions with PLAINTIFF'S supervisor or his counsel who filed a legal action against
15 DEFENDANTS.

16 85. On October 31, 2024, PLAINTIFF obtained a right to sue letter from the California
17 Department of Civil Rights, attached hereto as Exhibit A.

18 **VI. CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**

20 For Failure to Provide Rest Periods
(Cal. Lab. Code §§ 226.7 & 512)
21 (PLAINTIFF Against All DEFENDANTS)

22 86. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and
23 every allegation set forth above.

24 87. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders require
25 DEFENDANTS to provide employees with all rest periods specified in the applicable Wage Order.
26 These laws and regulations further entitle employees to be paid one additional hour of pay at their
27 regular rate of compensation for each day of denied rest period.

28 88. As a result of DEFENDANTS' policies and practices, PLAINTIFF was denied his

proper rest periods by DEFENDANTS and DEFENDANTS' Managers

89. PLAINTIFF was required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further and for the same reasons PLAINTIFF was denied his first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, PLAINTIFF was denied a first and second rest period of at least ten (10) minutes for shifts worked of between six (6) and eight (8) hours. PLAINTIFF was also not provided with one-hour wages in lieu thereof.

90. DEFENDANTS violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF who was not provided a rest period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that rest period was not provided.

91. As a direct and proximate result of the aforementioned violations, PLAINTIFF has been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

SECOND CAUSE OF ACTION

For Failure to Provide Meal Periods

(Cal. Lab. Code §§ 226.7 & 512)

(PLAINTIFF Against All DEFENDANTS)

92. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and every allegation set forth above.

93. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders require DEFENDANTS to provide employees with all meal periods specified in the applicable Wage Order. These laws and regulations further entitle employees to be paid one additional hour of pay at their regular rate of compensation for each day of denied meal period.

94. DEFENDANTS failed to provide all the legally required off-duty meal breaks to PLAINTIFF as required by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF does not prevent DEFENDANTS from relieving their employees of all job duties in order to take a legally required off-duty meal periods. As a result of DEFENDANTS policies and practices, PLAINTIFF was not fully relieved of duty by DEFENDANT for meal

1 periods.

2 95. DEFENDANTS further violated California Labor Code §§ 226.7, 512 and the
3 applicable IWC Wage Order by failing to compensate PLAINTIFF who was not provided a meal
4 period, in accordance with the applicable Wage Order, one additional hour of compensation at each
5 employee's regular rate of pay for each workday that a meal period was not provided.

6 96. As a direct and proximate result of the aforementioned violations, PLAINTIFF has
7 been damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
8 penalties, expenses and costs of suit.

9 **THIRD CAUSE OF ACTION**

10 For Failure to Pay Minimum Wages
(Cal. Lab. Code § 1194, 1194.2, 1197, 1197.1, 218.5, 218.6)
11 (PLAINTIFF Against All DEFENDANTS)

12 97. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
13 every allegation set forth above.

14 98. PLAINTIFF brings a claim for DEFENDANTS' willful and intentional violations of
15 California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS'
16 failure to accurately calculate and pay minimum wages to PLAINTIFF.

17 99. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
18 including minimum wage compensation and interest thereon, together with the costs of suit. Cal.
19 Lab. § 1194.2 further establishes an employee's right to liquidated damages in an amount equal to
20 the unpaid minimum wages according to proof at trial.

21 100. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF without
22 regard to the correct amount of time worked. As set forth herein, DEFENDANTS' uniform policy
23 and practice was to unlawfully and intentionally deny payment of wages due to PLAINTIFF for all
24 hours worked and therefore did not receive minimum wage for all hours worked as required by Cal.
25 Lab. Code § 1197.

26 101. In committing these violations of the California Labor Code, DEFENDANTS failed
27 to accurately calculate the amount of time worked and consequently underpaid the actual time
28 worked by PLAINTIFF. DEFENDANTS acted in an illegal attempt to avoid the payment of all

1 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
2 Commission requirements and other applicable laws and regulations.

3 102. PLAINTIFF was paid less for time worked than PLAINTIFF was entitled to,
4 constituting a failure to pay all earned wages.

5 103. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
6 PLAINTIFF has suffered and will continue to suffer an economic injury including the use and
7 enjoyment of wages and lost interest on such wages all to his damage in amounts in amounts which
8 are presently unknown, and which will be ascertained according to proof at trial.

9 104. DEFENDANTS knew or should have known that PLAINTIFF was under-
10 compensated for PLAINTIFF'S time worked. DEFENDANTS systematically elected, either
11 through intentional malfeasance or gross nonfeasance, to not pay employees for their labor as a
12 matter of uniform corporate policy, practice and procedure, and DEFENDANTS perpetrated this
13 systematic scheme by refusing to pay PLAINTIFF the correct wages for all time worked.

14 105. In performing the acts and practices herein alleged in violation of California labor
15 laws, and refusing to compensate PLAINTIFF for all time worked and provide the requisite
16 compensation, DEFENDANTS acted and continue to act intentionally, oppressively, and
17 maliciously toward PLAINTIFF with a conscious disregard for PLAINTIFF'S legal rights, or the
18 consequences to PLAINTIFF, and with the intent of depriving PLAINTIFF of PLAINTIFF'S
19 property and legal rights, and otherwise causing injury in order to increase company profits at the
20 expense of this employee.

21 106. PLAINTIFF, therefore, request recovery of all unpaid wages, according to proof,
22 interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS,
23 in a sum as provided by the California Labor Code and/or other applicable statutes.

24 **FOURTH CAUSE OF ACTION**

25 For Failure to Pay Overtime Wages
(Cal. Lab. Code §§ 558, 510, 1194, 1198)
26 (PLAINTIFF Against All DEFENDANTS)

27 107. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and
28 every allegation set forth above.

1 108. Labor Code section 558 provides for a civil penalty to be assessed against any
2 employer or other person acting on behalf of an employer who fails to compensate employees at the
3 statutory overtime rate for any work in excess of eight hours in one day or any work in excess of 40
4 hours in any workweek or who fails to compensate employees at the statutory double time rates for
5 any work in excess of twelve hours in one day or any work in excess of 8 hours on the seventh day
6 of a workweek.

7 109. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
8 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code
9 § 1198 further states that the employment of an employee for longer hours than those fixed by the
10 Industrial Welfare Commission is unlawful.

11 110. Pursuant to Labor Code section 558, PLAINTIFF is entitled to recover a penalty of
12 \$50.00 for the initial failure to compensate employees at the statutory overtime rate for any work in
13 excess of eight hours in one day or any work in excess of 40 hours in any workweek and/or failure
14 to compensate employees at the statutory double time rates for any work in excess of twelve hours
15 in one day in addition to any underpaid wages; and \$100.00 for each subsequent failure to
16 compensate employees at the statutory overtime rate for any work in excess of eight hours in one
17 day or any work in excess of 40 hours in any workweek in addition to any underpaid wages.

18 111. DEFENDANTS routinely and systematically failed to properly record accurate time
19 records for each employee showing when each employee began and ended each work period. This
20 work included overtime. By failing to properly record hours, DEFENDANTS routinely and
21 systematically failed to compensate employees at the statutory overtime rate for any work in excess
22 of eight (8) hours in one day or any work in excess of forty (40) hours in any workweek as required
23 by Labor Code section 510 and Section 3 of the applicable Wage Order.

24 112. During PLAINTIFF'S employment, DEFENDANTS required PLAINTIFF to
25 perform work, including overtime, for DEFENDANTS and was not paid for all the time worked.

26 113. As a proximate result of DEFENDANTS' failure to pay overtime wages as alleged
27 above, PLAINTIFF is entitled to recover from DEFENDANTS penalties pursuant to section 558 as
28 may be established according to proof at trial. As a direct result of DEFENDANTS' unlawful wage

1 practices as alleged herein, PLAINTIFF did not receive the correct overtime compensation for his
2 time worked for DEFENDANTS.

3 114. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages,
4 and other benefits in violation of the California Labor Code, the Industrial Welfare Commission
5 requirements and other applicable laws and regulations.

6 115. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from
7 the overtime requirements of the law. For portions of PLAINTIFF'S employment, these exemptions
8 did not apply to PLAINTIFF. Further, PLAINTIFF is not subject to a valid collective bargaining
9 agreement that would preclude the causes of action contained herein this Complaint.

10 116. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
11 compensation to PLAINTIFF for the true amount of overtime worked, PLAINTIFF has suffered
12 and will continue to suffer an economic injury in amounts which are presently unknown to him, and
13 which will be ascertained according to proof at trial.

14 117. DEFENDANTS knew or should have known that PLAINTIFF was under
15 compensated for his time worked. DEFENDANTS systematically elected, either through intentional
16 malfeasance or gross nonfeasance, to not pay him for labor as a matter of uniform company policy,
17 practice and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
18 PLAINTIFF the correct overtime wages for their overtime worked.

19 118. In performing the acts and practices herein alleged in violation of California labor
20 laws, and refusing to compensate PLAINTIFF for all time worked and provide him with the requisite
21 compensation, DEFENDANTS acted and continues to act intentionally, oppressively, and
22 maliciously toward PLAINTIFF with a conscious of and utter disregard for his legal rights, or the
23 consequences to him, and with the despicable intent of depriving him of his property and legal rights,
24 and otherwise causing him injury in order to increase company profits at the expense of these
25 employees.

26 119. Therefore, PLAINTIFF request recovery of overtime wages, according to proof,
27 interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS,
28 in a sum as provided by the California Labor Code and/or other applicable statutes.

1 **FIFTH CAUSE OF ACTION**

2 For Failure to Reimburse Business Expenses
3 (Cal. Lab. Code §§ 2802)
4 (PLAINTIFF Against ALL DEFENDANTS)

5 120. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
6 every allegation set forth above.

7 121. Pursuant to California Labor Code section 2802, DEFENDANTS are required to
8 indemnify PLAINTIFF for the expenses and losses incurred during the performance of job
9 duties. The purpose of this statute is to prevent employers from passing their operating expenses on
10 to their employees.

11 122. DEFENDANTS required PLAINTIFF to use PLAINTIFF'S personal vehicle in the
12 discharge work duties but failed to reimburse PLAINTIFF for the use or cost of PLAINTIFF'S
13 personal vehicle in violation of Labor Code section 2802.

14 123. DEFENDANTS sought to pay their own pockets at the expense of their employees,
15 and instead of compensating their employees for the necessary business costs, the employer passed
16 on its costs to its employees.

17 124. DEFENDANTS intentionally failed to reimburse its employees for the actual
18 expenses incurred and thereby increased its own profits to the detriment of its employees.

19 125. PLAINTIFF seeks to recover these business expenditures, plus interest thereon,
20 reasonable attorneys' fees, and costs, and statutory and civil penalties as provided by the Labor Code
21 in an amount to be proven.

22 126. Interest accrues from the date the employee incurred the necessary expenditure or
23 loss.

24 **SIXTH CAUSE OF ACTION**

25 For Failure to Provide Accurate, Itemized Wage Statements
26 (Cal. Lab. Code §§ 226; 226.3; 1174.5)
27 (PLAINTIFF Against All DEFENDANTS)

28 127. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and
every allegation set forth above.

128. Labor Code section 226 requires defendants to provide employees an accurate

1 itemized statement showing (1) gross wages earned, (2) total hours worked by the employee, (3) the
2 number of piece units and rates if applicable, (4) all deductions, (5) net wages earned, (6) the
3 inclusive date of the period for which the employee is paid, (7) the name of the employee and his/her
4 or his social security number, (8) the name and address of the legal entity that is the employer, and
5 (9) all applicable hourly rates in effect and the corresponding number of hours worked

6 129. DEFENDANTS did not accurately record PLAINTIFF'S time worked, wages, and
7 missed meal and rest breaks. DEFENDANTS failed to provide an accurate wage statement in
8 writing that properly and accurately itemizes all wages, missed meal and rest periods, applicable
9 hourly wages in effect, and reporting time wages owed to PLAINTIFF and thereby also failed to set
10 forth the correct wages earned by the employees.

11 130. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
12 section 226(a) on each and every wage statement that they provided to PLAINTIFF.

13 131. By failing to keep adequate records, as required by Labor Code sections 226 and
14 1174, DEFENDANTS injured PLAINTIFF making it difficult for this employee to calculate the
15 minimum wages owed. Those injuries include unpaid wages, interest, and penalties thereon.

16 132. PLAINTIFF seeks to recover the statutory penalties provided by Labor Code section
17 226(e), 226.3, and 1174.5 for the wage statement violations committed by DEFENDANTS.

18 **SEVENTH CAUSE OF ACTION**

19 For Retaliation

20 (Cal. Lab. Code §§ 232.5

21 (PLAINTIFF Against DEFENDANT BROWNING CONTRACTORS, INC.)

22 133. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
23 every allegation set forth above.

24 134. DEFENDANTS demanded PLAINTIFF to sign a confidentially agreement that
25 prohibited PLAINTIFF from discussing his working conditions. DEFENDANTS conditioned better
26 working conditions on PLAINTIFF'S agreement to sign the confidentiality agreement.

27 135. DEFENDANTS retaliated against PLAINTIFF when he refused to do so and did not
28 provide him the promised position.

136. DEFENDANTS non-retaliatory reason for not providing PLAINTIFF with the

1 promised position was pretext for retaliating against PLAINTIFF. There is a casual nexus between
2 PLAINTIFF'S engagement of a protected activity and DEFENDANTS' reduction of PLAINTIFF'S
3 hours.

4 137. As a proximate result of the aforementioned violations, PLAINTIFF has been
5 damaged in an amount according to proof at trial, including the loss of wages to which he was
6 entitled.

7 **EIGHTH CAUSE OF ACTION**

8 Hostile Work Environment - Sexual Harassment

9 (Gov. Code, §§ 12923, 12940(j))

10 (PLAINTIFF Against DEFENDANT BROWNING CONTRACTORS, INC.)

11 138. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and
12 every allegation set forth above.

13 139. FEHA makes it unlawful "[f]or an employer, . . . or any other person, because of sex,
14 gender, gender identity, gender expression, . . . to harass an employee." FEHA also states that
15 "[h]arassment of an employee . . . shall be unlawful if the entity, or its agents or supervisors, knows
16 or should have known of this conduct and fails to take immediate and appropriate corrective action."
17 And FEHA requires an entity to "take all reasonable steps to prevent harassment from occurring."
18 Finally, FEHA notes: "Loss of tangible job benefits shall not be necessary in order to establish
19 harassment." Cal. Gov. Code section 12940(j).

20 140. PLAINTIFF was an employee of DEFENDANT BROWNING CONTRACTORS,
21 INC. and was subject to repeated severe and pervasive harassing conduct because he was a man
22 such that a reasonable man in PLAINTIFF's circumstances would have considered the work
23 environment to be hostile, intimidating, offensive, oppressive, and abusive.

24 141. DEFENDANT BROWNING CONTRACTORS, INC'S agent engaged in the
25 conduct and knew about the conduct and failed to take immediate and appropriate corrective action.

26 142. As a direct and proximate result of DEFENDANT BROWNING CONTRACTORS,
27 INC'S conduct as alleged above, PLAINTIFF has suffered, and continue to suffer, losses in amounts
28 according to proof at trial.

143. DEFENDANT BROWNING CONTRACTORS, INC'S malicious and despicable

1 conduct subjected PLAINTIFF to a cruel and unjust hardship, in conscious disregard of his rights,
2 justifying an award of exemplary and/or punitive damages in an amount to be determined at trial.

3 **NINTH CAUSE OF ACTION**

4 Hostile Work Environment - For Sexual Harassment
5 (Cal. Gov. Code § 12923, 12940(j))
6 (PLAINTIFF Against DEFENDANT CANTU)

7 144. PLAINTIFF incorporates by reference and reallege as if fully stated herein each
8 and every allegation set forth above.

9 145. PLAINTIFF was an employee of DEFENDANT BROWNING CONTRACTORS,
10 INC. working under the supervision of DEFENDANT CANTU.

11 146. As alleged herein, DEFENDANT CANTU made unwanted sexual advances
12 towards PLAINTIFF and engaged in unwanted verbal and physical conduct of a sexual nature. As
13 a result, PLAINTIFF was subjected to severe and pervasive harassing conduct that he considered
14 to be hostile, intimidating, offensive, oppressive, and abusive because he was a man.

15 147. A reasonable man in PLAINTIFF's circumstances would have considered the work
16 environment to be hostile, intimidating, offensive, oppressive, and abusive.

17 148. DEFENDANT CANTU engaged in the harassment of PLAINTIFF during his
18 employment.

19 149. As a direct and proximate result of DEFENDANT CANTU'S unlawful conduct as
20 alleged hereinabove, PLAINTIFF has suffered all in an amount according to proof at trial.

21 **TENTH CAUSE OF ACTION**

22 For Sexual Harassment – Quid Pro Quo
23 (Cal. Gov. Code § 129400 et seq.)

24 (PLAINTIFF Against DEFENDANT BROWNING CONTRACTORS, INC.)

25 150. PLAINTIFF incorporates by reference and reallege as if fully stated herein each
26 and every allegation set forth above.

27 151. PLAINTIFF was an employee of DEFENDANT BROWNING CONTRACTORS,
28 INC. and DEFENDANT DOES.

152. As alleged herein, DEFENDANT CANTU made unwanted sexual advances
towards PLAINTIFF and engaged in unwanted verbal and physical conduct of a sexual nature.

153. The terms of PLAINTIFF'S favorable working conditions were made contingent, by words and conduct, on PLAINTIFFS' acceptance of DEFENDANT CANTU's sexual advances and conduct.

154. At all times during PLAINTIFF'S sexual harassment, DEFENDANT CANTU was a direct supervisor of PLAINTIFF and agent of DEFENDANT BROWNING CONTRACTORS, INC. and DEFENDANT DOES.

155. As a direct and proximate result of DEFENDANT BROWNING CONTRACTORS INC'S unlawful conduct as alleged hereinabove, PLAINTIFF has suffered in an amount according to proof at trial.

ELEVENTH CAUSE OF ACTION

For Sexual Favoritism

(Cal. Gov. Code § 12923, 12940(j) et seq.)

(PLAINTIFF Against DEFENDANT BROWNING CONTRACTORS, INC.)

156. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and every allegation set forth above.

157. PLAINTIFF was an employee of DEFENDANT BROWNING CONTRACTORS, INC. and experienced severe and pervasive sexual favoritism in DEFENDANT BROWNING CONTRACTORS, INC. work environment as a result of his protected status as a man.

158. A reasonable man in PLAINTIFF'S circumstances would have considered the conduct to be hostile, intimidating, offensive, oppressive, and abusive because of such sexual favoritism.

159. PLAINTIFF did consider the conduct to be hostile, intimidating, offensive, oppressive, and abusive because of such sexual favoritism.

160. PLAINTIFF’S supervisor and agent of DEFENDANT BROWNING CONTRACTORS, INC, DEFENDANT CANTU engaged in and knew of such sexual favoritism and failed to take immediate and appropriate action.

161. As a direct and proximate result of DEFENDANT BROWNING CONTRACTORS, INC. and DEFENDANT DOES'S unlawful conduct as alleged hereinabove, PLAINTIFF has suffered all in an amount according to proof at trial.

1 **TWELVTH CAUSE OF ACTION**

2 For Recovery of Civil Penalties Under the Labor Code Private Attorney General Act
(Cal. Lab. Code §§ 2698 *et seq.*)

3 (PLAINTIFF and Aggrieved Employees Against All DEFENDANTS)

4 162. PLAINTIFF and other AGGRIEVED EMPLOYEES incorporate by reference and
5 reallege as if fully stated herein each and every allegation set forth above.

6 163. As a result of the acts alleged herein, PLAINTIFF, as an AGGRIEVED EMPLOYEE
7 within the meaning of Labor Code section 2699, subdivision (c), on behalf of himself and all other
8 AGGRIEVED EMPLOYEES of DEFENDANTS, seeks the recovery of civil penalties against
9 DEFENDANTS pursuant to California Labor Code sections 2698 *et seq.*, for the following knowing
10 and intentional violations of the California Labor Code:

- 11 a. For failing to compensate employees who were not provided a rest period in violation
12 of Labor Code Section 226.7 and 512;
- 13 b. For failing to compensate employees who were not provided a meal period in
14 violation of Labor Code Section 226.7 and 512;
- 15 c. For failing to pay all minimum wages, in violation of Labor Code sections 1194,
16 1194.2, 1197, 1197.1, 218.5, and 218.6;
- 17 d. For failing to provide employees who worked more than eight (8) hours per workday
18 and more than forty (40) hours per workweek additional compensation beyond their
19 regular wages in violation of Labor Code Section 510, 558, 1194, and 1198;
- 20 e. For failing to reimburse employees for business-related expenses in violation of
21 Labor Code section 2802;
- 22 f. For failing to maintain for and provide accurate, itemized wage statements required
23 by Labor Code Section 226, 226.3;
- 24 g. For failing to maintain accurate records in violation of Labor Code Section 1174.5.

25 164. The above-referenced civil penalties shall include the recovery of amounts specified
26 in the applicable sections of the Labor Code, and if not specifically provided, those under section
27 2699(f), and shall include those amounts sufficient to recover underpaid wages pursuant to C.C.R.
28 section 11040 and Labor Code sections §§ 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 515, 558,

1 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699, subdivisions (a) and (f).

2 165. PLAINTIFF filed this complaint after the LWDA was afforded the opportunity to
3 consider PLAINTIFF's notice of DEFENDANTS' Labor Code violations and of PLAINTIFF's
4 intent to prosecute a private enforcement action for civil penalties under PAGA. After the LWDA
5 declined to investigate, PLAINTIFF brought this PAGA cause of action against DEFENDANTS,
6 pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A).

7 **DEMAND FOR RELIEF**

8 WHEREFORE, PLAINTIFF prays for a judgment against each DEFENDANT, jointly and
9 severally, as follows:

10 1. On behalf of the PLAINTIFF:

11 A. Compensatory damages, according to proof at trial, including unpaid minimum and
12 overtime wages, due to PLAINTIFF, during the applicable employment period plus interest thereon
13 at the statutory rate;

14 B. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
15 applicable IWC Wage Order;

16 C. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
17 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
18 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
19 an award of costs for violation of Cal. Lab. Code § 226.

20 D. One hundred dollars (\$100) for the initial pay period in which Defendants
21 intentionally failed to pay minimum wages per employee per pay period and two hundred fifty
22 dollars (\$250) per employee per pay period for each violation in a subsequent pay period for
23 violation of Cal. Lab. Code § 1197 and 1197.1;

24 E. The amount of the expenses PLAINTIFFS incurred in the course of his job duties,
25 plus interest, and costs of suit.

26 F. Punitive damages in an amount to punish DEFENDANTS to be proven at trial.

27 G. Liquidates damages pursuant to Cal. Lab. Code § 1194.2 in an amount equal to the
28 unpaid minimum wages according to proof at trial;

1 H. Civil penalties according to proof as provided by State Bill 497 for Defendants'
2 violation of Cal. Lab. Code § 98.6;

3 2. On Behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES

4 A. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
5 General Act of 2004;

6 3. On all claims:

7 A. An award of interest, including prejudgment interest at the legal rate;

8 B. Such other and further relief as the Court deems just and equitable; and

9 C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.

10 Respectfully submitted,

11 **EMRAN LAW FIRM**

12
13
14 DATED: January 10, 2025

By: Harris Emran
Harris Emran
Attorney for PLAINTIFF and OTHER
AGGRIEVED EMPLOYEES

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18 **DEMAND FOR A JURY TRIAL**

19 PLAINTIFF demands a jury trial on issues triable to a jury.

20
21 **EMRAN LAW FIRM**

22
23 DATED: January 10, 2025

By: Harris Emran
Harris Emran
Attorney for PLAINTIFF and OTHER
AGGRIEVED EMPLOYEES

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EXHIBIT A



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

October 31, 2024

Harris Emran
415 Mission St, 37th FL
San Francisco, CA 94105

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202410-26894631
Right to Sue: Valencia / Browning Contractors, Inc. et al.

Dear Harris Emran:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

October 31, 2024

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202410-26894631

Right to Sue: Valencia / Browning Contractors, Inc. et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

October 31, 2024

Roque Valencia

,

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202410-26894631
Right to Sue: Valencia / Browning Contractors, Inc. et al.

Dear Roque Valencia:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective October 31, 2024 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Roque Valencia

CRD No. 202410-26894631

Complainant,

vs.

Browning Contractors, Inc.
2914 N Argyle Ave
Fresno, CA 93727

Cynthia Cantu
2914 N Argyle Ave
Fresno, CA 93727

Respondents

1. Respondent **Browning Contractors, Inc.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Cynthia Cantu** individual as Co-Respondent(s).

3. Complainant **Roque Valencia**, resides in the City of , State of .

4. Complainant alleges that on or about **August 3, 2024**, respondent took the following adverse actions:

Complainant was harassed because of complainant's sex/gender, sexual harassment-hostile environment, sexual harassment- quid pro quo.

Complainant was discriminated against because of complainant's sex/gender, sexual harassment- hostile environment, sexual harassment- quid pro quo and as a result of the discrimination was denied or forced to transfer.

Additional Complaint Details:

1 VERIFICATION

2 I, **Kaitlin Martinez**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On October 31, 2024, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **San Francisco, CA**
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