

DAVID GLENN SPIVAK (SBN 179684)
david@spivaklaw.com
CAROLINE TAHMASSIAN (SBN 285680)
caroline@spivaklaw.com
THE SPIVAK LAW FIRM
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
Telephone: (213) 725-909
Facsimile: (213) 634-2485

Attorneys for Plaintiff(s),
ARMANDO ASCENCIO, and all others similarly situated

FILED
Superior Court of California
County of Los Angeles
12/19/2024

David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
(UNLIMITED JURISDICTION)

ARMANDO ASCENCIO, on behalf of himself
and all others similarly situated, and the general
public, and as "Aggrieved Employees" on behalf
of other "Aggrieved Employees" and the State of
California under the Labor Code Private
Attorneys General Act of 2004,

Plaintiff,

vs.

MONARCH LITHO INC., a California
corporation, ROBERT LOPEZ, a natural
individual; and DOES 1-50, inclusive,

Defendants.

Case No.: 24STCV27524

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay All Wages Earned for All Hours Worked and Other Compensable Hours at the Correct Rates of Pay (Lab. Code §§ 221, 510, 1194, 1197, and 1198);
2. Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
3. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
4. Failure to Indemnify (Lab. Code §§ 1198 and 2802);
5. Wage Statement Penalties (Lab. Code § 226);
6. Waiting Time Penalties (Lab. Code § 203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.; and
8. Civil Penalties (Lab Code §§2698, et seq.)

JURY TRIAL DEMANDED



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 Plaintiff, Armando Ascencio (hereafter “Plaintiff” or “Ascencio”), on behalf of himself
2 and all others similarly situated, the general public, and as an “aggrieved employee” on behalf of
3 other “aggrieved employees” and the State of California under the Labor Code Private Attorneys
4 General Act of 2004, complains and alleges as follows:

5 **I. INTRODUCTION**

6 1. Plaintiff brings this class and representative action for alleged violations of the
7 California Labor Code, Industrial Welfare Commission Order No. 4-2001 (hereafter “the Wage
8 Order”), and the California Business and Professions Code against Defendants Monarch Litho
9 Inc., Robert Lopez, and Does 1 through 50, inclusive (collectively “Defendants”).

10 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
11 him and other similarly situated workers for unpaid wages, statutory penalties, interest, and
12 related relief. These claims are based on Defendants’ failures to:

13 (A) Pay all wages, including minimum, regular, overtime and doubletime
14 wages, earned for all hours worked at the correct rates of pay;

15 (B) Provide all meal periods;

16 (C) Authorize and permit all rest breaks;

17 (D) Pay premium wages for unprovided meal periods;

18 (E) Pay premium wages for unprovided rest breaks;

19 (F) Indemnify for necessary work-related expenditures;

20 (G) Only deduct wages lawfully;

21 (H) Issue only accurate and complete itemized wage statements; and

22 (I) Timely pay wages upon termination of employment.

23 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
24 restitution, statutory and civil penalties, attorneys’ fees, costs, and related relief through this class
25 action.

26 **II. THE PARTIES**

27 3. Plaintiff Armando Ascencio is a resident of California. At all relevant times,
28 Plaintiff was an “employees” within the meaning of Title 8 California Code of Regulations



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 Section 11040, and an “aggrieved employee” within the meaning of California Labor Code
2 § 2699(c).

3 3. Defendant Monarch Litho Inc. is a corporation organized and existing under the
4 laws of California and also a citizen of California based on Plaintiff’s information and belief.

5 4. Defendant Robert Lopez is a natural person, and a citizen of California based on
6 Plaintiff’s information and belief. Defendant Lopez is the owner, Chief Executive
7 officer and a managing agent for Defendant Monarch Litho Inc. and the other Defendants.

8 5. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
9 participation in the conduct alleged herein of Defendants sued as DOES 1-50, inclusive, but is
10 informed and believes and thereon alleges that said Defendants are legally responsible for the
11 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
12 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
13 when ascertained.

14 6. Plaintiff is informed and believes and thereon alleges that, at all relevant times
15 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
16 remaining defendants, and in doing the things hereinafter alleged, were acting or failing to act
17 within the course and scope of such agency, employment, direction and control, and with the
18 approval and ratification of each of the other Defendants.

19 7. At all relevant times, in perpetrating the acts and omissions alleged herein,
20 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
21 of a practice which resulted in Defendants not compensating Plaintiff and the other Class
22 Members or otherwise complying with their rights in accordance with applicable California labor
23 laws as alleged herein.

24 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
25 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice, or
26 lack thereof, which resulted in Defendants not paying Plaintiff and other members of the below-
27 described class in accordance with applicable laws as alleged herein.

28 ///



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

III. CLASS ALLEGATIONS

9. This action has been brought and may be maintained as a class action pursuant to California Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable class defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

10. **Class Definition:** The Class is defined as follows: All persons Defendants employed in California as non-exempt, hourly employees, including but not limited to mechanics, individuals performing work comparable to the aforementioned, compensated comparably to the aforementioned, and individuals in similar positions, at any time during the period beginning four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Class” or “Class Members”).

11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definition with greater specificity, by further division into subclasses and/or by limitation to particular issues.

12. **Numerosity:** The Class Members are so numerous that the individual joinder of each individual Class Member is impractical. While Plaintiff does not currently know the exact number of Class Members, Plaintiff is informed and believes that the actual number exceeds the minimum required for numerosity under California laws.

13. **Commonality and Predominance:** Common questions of law and fact exist as to all Class Members and predominate over any questions which affect only individual Class Members. These questions include, but are not limited to:

A. Whether Defendants failed to pay all wages earned to Class Members for all hours worked at the correct rates of pay, including minimum, regular, overtime, doubletime, meal period premium, and rest period premium,;

B. Whether Defendants unlawfully deducted wages from Class Members;

C. Whether Defendants failed to provide the Class Members with all meal periods in compliance with California law;



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 D. Whether Defendants failed to authorize and permit the Class Members to
2 take all rest periods in compliance with California law;

3 E. Whether Defendants failed to indemnify the Class Members for the
4 reasonable expenses they incurred during the course of performing their duties;

5 F. Whether Defendants knowingly and intentionally failed to provide the
6 class with accurate and complete itemized wage statements;

7 G. Whether Defendants willfully failed to provide the class with timely final
8 wages;

9 H. Whether Defendants engaged in unfair competition within the meaning of
10 Business and Professions Code sections 17200, et seq., with respect to the Class; and

11 I. Whether Class Members are entitled to restitution of money or property
12 that Defendants may have acquired from them through alleged Labor Code violations.

13 14. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
14 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
15 practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
16 Code, the Wage Order, and the Business and Professions Code.

17 15. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
18 in that he has no interests that are adverse to, or otherwise in conflict with, the interests of absent
19 Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class
20 Members. Plaintiff will fairly and adequately represent and protect the interests of Class
21 Members.

22 16. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
23 they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced
24 in class action litigation, and are dedicated to vigorously prosecuting this action on behalf of
25 Plaintiff and absent Class Members.

26 17. **Superiority:** A class action is vastly superior to other available means for fair and
27 efficient adjudication of Class Members' claims and would be beneficial to the parties and the
28 Court. Class action treatment will allow a number of similarly situated persons to simultaneously



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 and efficiently prosecute their common claims in a single forum without the unnecessary
2 duplication of effort and expense that numerous individual actions would entail. In addition, the
3 monetary amounts due to many individual Class Members are likely to be relatively small and
4 would thus make it difficult, if not impossible, for individual Class Members to both seek and
5 obtain relief. Moreover, a class action will serve an important public interest by permitting Class
6 Members to effectively pursue the recovery of monies owed to them. Further, a class action will
7 prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

8 **IV. STATEMENT OF FACTS**

9 18. The Wage Order applies to “all persons employed in professional, technical,
10 mechanical, and similar occupations whether paid on a time, piece rate, commission, or other
11 basis...” Wage Order, § 1. The Wage Order defines “Professional, Technical, Clerical,
12 Mechanical, and Similar Occupations” to include

13 professional, semiprofessional, managerial, supervisory, laboratory, research,
14 technical, clerical, office work, and mechanical occupations. Said occupations
15 shall include, but not be limited to, the following: accountants; agents; appraisers;
16 artists; attendants; audio-visual technicians; bookkeepers; bundlers; billposters;
17 canvassers; carriers; cashiers; checkers; clerks; collectors; communications and
18 sound technicians; compilers; copy holders; copy readers; copy writers; computer
19 programmers and operators; demonstrators and display representatives;
20 dispatchers; distributors; door-keepers; drafters; elevator operators; estimators;
21 editors; graphic arts technicians; guards; guides; hosts; inspectors; installers;
22 instructors; interviewers; investigators; librarians; laboratory workers; machine
23 operators; mechanics; mailers; messengers; medical and dental technicians and
24 technologists; models; nurses; packagers; photographers; porters and cleaners;
process servers; printers; proof readers; salespersons and sales agents; secretaries;
sign erectors; sign painters; social workers; solicitors; statisticians; stenographers;
teachers; telephone, radiotelephone, telegraph and call-out operators; tellers;
ticket agents; tracers; typists; vehicle operators; x-ray technicians; their assistants
and other related occupations listed as professional, semiprofessional, technical,
clerical, mechanical, and kindred occupations

25 Wage Order, § 2(O). At all relevant times during the applicable limitations period, Defendants,
26 Ascencio, and all of the Class Members were covered by the Wage Order because Ascencio and
27 all of the Class Members worked for Defendants as printers, their assistants and other related
28 occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 occupations. Accordingly, Ascencio and all of the other Class Members are entitled to the
2 protections the Wage Order provides.

3 19. On approximately September 15, 1999, Defendants began to employ Ascencio in
4 Montebello in the position of hourly, non-exempt mechanic. Defendants continuously employed
5 him in that capacity until on or about July 26, 2024 when his employment ended.

6 20. At all relevant times, Defendants issued wages to Ascencio and all of the other
7 Class Members on a weekly basis and paid them by the hour. At all relevant times, Defendants
8 classified Ascencio and all of the other Class Members as non-exempt employees entitled to the
9 protections of the Labor Code and the Wage Order.

10 21. At all relevant times, Defendants failed to compensate Ascencio and all of the
11 other Class Members for all hours worked at the applicable minimum or regular rates of pay.
12 Defendants required Ascencio and all of the other Class Members to work off the clock without
13 compensation after they had already clocked out at the end of their shifts. Defendants further
14 arbitrarily deducted several minutes from the hours Ascencio and all of the other Class Members
15 worked and recorded and failed to pay them for all hours worked. For example, for the period of
16 July 22, 2024 to July 28, 2024, Ascencio reported 24 hours and 37 minutes on his time records
17 (in addition to eight (8)) hours of sick time). Defendants, however, compensated him only for 24
18 hours of worktime (in addition to eight (8) hours of sick time). In other words, Defendants
19 arbitrarily deducted 37 minutes from Ascencio's hours worked and failed to compensate him for
20 all overtime hours worked. Defendants also often called Ascencio and all of the other Class
21 Members on their days off to discuss work related matters such as the status of the printing
22 machines without compensating them for such hours worked. Further, Defendants arbitrarily
23 deducted several minutes from Ascencio and all of the other Class Members' hours worked if
24 they arrived to work a few minutes after they scheduled start time.

25 22. As result of the off the clock work and the deducted wages discussed above,
26 Defendants also failed to compensate Ascencio and all of the other Class Members at the correct
27 rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight
28 hours of the seventh day of the workweek. Defendants also failed to compensate Ascencio and



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 all of the other Class Members at the correct rates of pay for all hours worked over 12 in a day,
2 and all over the first eight of the seventh day of the workweek.

3 23. At all relevant times, Defendants failed to provide Ascencio and all of the other
4 Class Members with all timely 30-minute, off-duty meal periods. Defendants understaffed their
5 shifts and failed to provide the employees with off-duty, uninterrupted, meal periods before they
6 worked more than five (5) hours in a workday. Defendants required Ascencio and all of the other
7 Class Members to monitor their personal cellphone at all times and respond to their managers'
8 calls and messages even when they tried to take a meal period. On rare occasions that Ascencio
9 and the other Class Members were able to take a meal break, it was always after they had already
10 worked more than five (5) hours and it was often interrupted and for less than 30 minutes. Further,
11 Defendants failed to provide a second meal period when the employees worked more than 10
12 hours in a workday. Defendants also failed to pay premium wages for days on which they failed
13 to provide Ascencio and all of the other Class Members with meal periods as required by law.

14 24. At all relevant times, Defendants failed to authorize and permit Ascencio and all
15 of the other Class Members to take ten-minute, off-duty, paid rest breaks every four hours worked
16 or major portion thereof. Defendants never scheduled rest breaks for their employees and failed
17 to provide them with a 10 minute, uninterrupted, off-duty rest break for every four (4) hours
18 worked or major fraction thereof. Further, Defendants failed to provide a third rest break when
19 the employees worked more than 10 hours in a workday. Defendants also failed to pay premium
20 wages for days on which they failed to authorize and permit Ascencio and all of the other Class
21 Members to take rest breaks as required by law.

22 25. At all relevant times, Defendants required Ascencio and all of the other Class
23 Members to incur certain business expenses in the course of performing their duties. Defendants
24 required Ascencio and all of the other Class Members to supply mobile phones to perform their
25 job duties and to communicate with the managers and supervisor. However, Defendants did not
26 provide these items and did not reimburse Ascencio and the other Class Members for these items.

27 26. As discussed above, at all relevant times, Defendants unlawfully deducted wages
28 belonging to Ascencio and all of the other Class Members.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 27. At all relevant times, Defendants failed to issue to Ascencio and all of the other
2 Class Members complete and accurate wage statements that state all hours worked at the correct
3 rates of pay, and all wages earned. Defendants knowingly and intentionally failed to state on the
4 wage statements they issued to Ascencio and all of the other Class Members the unpaid wages
5 discussed above. The wage statements fail to state all minimum wages earned, all regular wages
6 earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages
7 earned, all rest break premium wages earned, all unlawfully deducted wages, gross wages earned,
8 net wages earned, all hours work at each rate of pay, and related information.

9 28. At all relevant times, Defendants also failed to timely pay Ascencio and all of the
10 other Class Members all earned wages as described above during and at the conclusion of
11 employment. Defendants also failed to provide the employees with final wages until days after
12 their last day worked.

13 29. At all relevant times, Defendants failed to maintain accurate employee records of
14 Ascencio and all of the other Class Members.

15 30. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
16 unlawful practices and policies, Plaintiff and the Class Members were:

17 A. Not provided with all off-duty, timely, uninterrupted, 30-minute meal
18 periods;

19 B. Not authorized and permitted to take all rest break periods;

20 C. Not paid one hour's pay for each workday in which Defendants failed to
21 authorize and permit them to take one or more timely rest periods;

22 D. Not paid one hour's pay for each workday in which Defendants failed to
23 provide them with one or more timely meal periods;

24 E. Not paid all wages earned, including, but not limited to, minimum, regular,
25 overtime, and doubletime wages;

26 F. Unlawfully deducted wages belonging to Plaintiff and the Class Members;

27 G. Not indemnified for all necessary business expenditures incurred during
28 the discharge of their duties;



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

- 1 H. Not provided with accurate and complete wage statements;
2 I. Failed to maintain accurate employment records; and
3 J. Not timely paid all earned and unpaid wages at the time their employment
4 ended.

5 **FIRST CAUSE OF ACTION**
6 **FAILURE TO PAY, DEDUCTING, OR WITHHOLDING ALL WAGES AT THE**
7 **CORRECT RATES**

8 **Lab. Code §§ 221, 510, 1194, 1197, and 1198**

9 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

10 31. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

11 32. At all relevant times, Plaintiff and the Class Members have been non-exempt
12 employees entitled to the protections of both the Labor Code and the Wage Order.

13 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
14 **THE CORRECT RATES OF PAY**

15 33. Section 2 of the Wage Order defines “hours worked” as “the time during which an
16 employee is subject to the control of an employer, and includes all the time the employee is
17 suffered or permitted to work, whether or not required to do so.”

18 34. Section 3 of the Wage Order states:

19 (A) Daily Overtime - General Provisions

- 20 (1) The following overtime provisions are applicable to
21 employees 18 years of age or over and to employees 16 or
22 17 years of age who are not required by law to attend
23 school and are not otherwise prohibited by law from
24 engaging in the subject work. Such employees shall not be
25 employed more than eight (8) hours in any workday or
26 more than 40 hours in any workweek unless the employee
27 receives one and one-half (1 ½) times such employee’s
28 regular rate of pay for all hours worked over 40 hours in
the workweek. Eight (8) hours of labor constitutes a day’s
work. Employment beyond eight (8) hours in any workday
or more than six (6) days in any workweek is permissible
provided the employee is compensated for such overtime
at not less than:



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.
- (b) Double the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.
- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee’s regular hourly salary as one-fortieth (1/40) of the employee’s weekly salary.

35. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consists of all hours that an employer has actual or constructive knowledge that employees are working.

36. Labor Code section 510 states:

Eight hours of labor constitutes a day’s work. 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. 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 at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

37. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

38. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 39. Labor Code section 1198 makes it unlawful for an employer to employ an
2 employee under conditions that violate the Wage Order.

3 40. In conjunction, these provisions of the Labor Code require employers to pay non-
4 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
5 worked, including unrecorded hours when the employer knew or reasonably should have known
6 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
7 Cal.4th 575, 585.)

8 41. As discussed above, at all relevant times during the applicable limitations period,
9 Defendants failed to compensate Plaintiff and the Class Members for all hours worked at the
10 correct rates of pay, including, but not limited to minimum, regular, overtime and doubletime
11 wages for all minimum, regular, overtime and doubletime hours, respectively, that they worked
12 at the correct rates of pay.

13 42. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
14 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
15 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
16 rates of pay as required by California law.

17 43. As a result of Defendants' unlawful conduct, Plaintiff and the other Class
18 Members have suffered damages in an amount, subject to proof, to the extent they were not paid
19 the full amount of wages earned during each pay period during the applicable limitations period.

20 44. Pursuant to Labor Code section 1194, Plaintiff, on behalf of herself and Class
21 Members, seeks to recover unpaid wages, liquidated damages in amounts equal to the amounts
22 of unpaid wages, interest thereon, and awards of reasonable costs and attorneys' fees, all in
23 amounts subject to proof.

24 **B. UNLAWFUL WAGE DEDUCTIONS**

25 45. Under Labor Code § 221, "It shall be unlawful for any employer to collect or
26 receive from an employee any part of wages theretofore paid by said employer to said employee."
27 As discussed above, Defendants deducted wages from the wages earned by Ascencio and all of
28 the other Class Members in violation of Labor Code § 221.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 46. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
2 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
3 deduction of wages belonging to Plaintiff and the other Class Members in violation of California
4 law.

5 **C. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
6 **LABOR CODE**

7 47. In relevant part, Labor Code section 558.1 states:

- 8 (a) Any employer or other person acting on behalf of an employer,
9 who violates, or causes to be violated, any provision regulating
10 minimum wages or hours and days of work in any order of the
11 Industrial Welfare Commission, or violates, or causes to be
12 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
13 held liable as the employer for such violation.
- 14 (b) For purposes of this section, the term "other person acting on
15 behalf of an employer" is limited to a natural person who is an
16 owner, director, officer, or managing agent of the employer, and
17 the term "managing agent" has the same meaning as in subdivision
18 (b) of Section 3294 of the Civil Code.

16 At all relevant times, Robert Lopez was an employer of Ascencio and all of the other Class
17 Members, and/or "owner," "managing agent," and/or "officer" of Defendants and the other
18 employers identified above. Robert Lopez was involved in the day-to-day operation of the
19 business and directly or indirectly, or through an agent or other person, employed and exercised
20 control over the wages, hours, and/or working conditions of the Class Members, and caused the
21 violations to the Labor Code and the Wage Order described above. On behalf of himself and all
22 of the other Class Members, Ascencio seeks an award of unpaid wages, interest, restitution,
23 statutory penalties, liquidated damages, attorneys' fees, costs, and related relief against Robert
24 Lopez that is the same as the awards he seeks against the other Defendants on the same grounds
25 for which Plaintiff seeks these awards against all Defendants.

26 ///

27 ///

28 ///



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS

Lab. Code §§ 226.7 and 512

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

48. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

49. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

50. In relevant part, California Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

51. In relevant part, In relevant part, California Labor Code § 512 states:

An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.

An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

52. In relevant part, Section 11 of the Wage Order states:

Meal Periods

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 employee is relieved of all duty during a 30 minute meal period,
2 the meal period shall be considered an “on duty” meal period and
counted as time worked. . . .

- 3 (B) If an employer fails to provide an employee a meal period in
4 accordance with the applicable provisions of this Order, the
5 employer shall pay the employee one (1) hour of pay at the
6 employee’s regular rate of compensation for each workday that the
meal period is not provided.

7 53. In relevant part, California Labor Code § 226.7 states:

- 8 (b) An employer shall not require an employee to work during
9 a meal or rest period mandated pursuant to an applicable
10 statute, or applicable regulation, standard, or order of the
11 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.

- 12 (c) If an employer fails to provide an employee a meal period
13 or rest period in accordance with a state law, including, but
14 not limited to, an applicable statute or applicable
15 regulation, standard, or order of the Industrial Welfare
16 Commission, the Occupational Safety and Health
17 Standards Board, or the Division of Occupational Safety
18 and Health, the employer shall pay the employee one
additional hour of pay at the employee’s regular rate of
compensation for each work day that the meal or rest
period is not provided.

19 54. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
20 Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day
21 they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled
22 to a second 30-minute meal period when they worked more than 10 hours in a workday.

23 55. As discussed above, Defendants intentionally failed to provide Plaintiff and the
24 Class Members with all required timely, 30-minute duty free meal periods in accordance with the
25 Wage Order. Furthermore, Defendants failed to pay premium wages to Plaintiff and the Class
26 Members for days on which they failed to provide Plaintiff and the other Class Members their meal
27 periods.
28



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 56. Plaintiff is informed and believes and thereon alleges that, at all relevant times
2 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
3 which resulted in Defendants not providing the and the Class Members with all timely and off-
4 duty meal periods required by California law.

5 57. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
6 suffered damages in amounts subject to proof to the extent they were not paid additional wages
7 owed for all meal periods not provided to them.

8 58. By reason of the above, Plaintiff and the Class Members are entitled to premium
9 wages for workdays in which one or more meal periods were not provided to them pursuant to
10 California Labor Code § 226.7.

11 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
12 **LABOR CODE**

13 59. In relevant part, Labor Code section 558.1 states:

14 (c) Any employer or other person acting on behalf of an employer,
15 who violates, or causes to be violated, any provision regulating
16 minimum wages or hours and days of work in any order of the
17 Industrial Welfare Commission, or violates, or causes to be
18 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
19 held liable as the employer for such violation.

20 (d) For purposes of this section, the term "other person acting on
21 behalf of an employer" is limited to a natural person who is an
22 owner, director, officer, or managing agent of the employer, and
23 the term "managing agent" has the same meaning as in subdivision
24 (b) of Section 3294 of the Civil Code.

25 At all relevant times, Robert Lopez was an employer of Ascencio and all of the other Class
26 Members, and/or "owner," "managing agent," and/or "officer" of Defendants and the other
27 employers identified above. Robert Lopez was involved in the day-to-day operation of the
28 business and directly or indirectly, or through an agent or other person, employed and exercised
control over the wages, hours, and/or working conditions of the Class Members, and caused the
violations to the Labor Code and the Wage Order described above. On behalf of himself and all
of the other Class Members, Ascencio seeks an award of unpaid wages, interest, restitution,



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 statutory penalties, liquidated damages, attorneys' fees, costs, and related relief against Robert
2 Lopez that is the same as the awards he seeks against the other Defendants on the same grounds
3 for which Plaintiff seeks these awards against all Defendants.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

6 **Lab. Code § 226.7**

7 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

8 60. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

9 61. At all relevant times during the applicable limitations period, Plaintiff and the
10 Class Members have been employees of Defendants and entitled to the benefits and protections
11 of California Labor Code §§ 226.7 and 1198, and the Wage Order.

12 62. In relevant part, California Labor Code § 1198 states:

13 The maximum hours of work and the standard conditions of labor
14 fixed by the commission shall be the maximum hours of work and
15 the standard conditions of labor for employees. The employment
16 of any employee for longer hours than those fixed by the order or
17 under conditions of labor prohibited by the order is unlawful.

18 63. In relevant part, Section 12 of the Wage Order states:

19 Rest Periods:

20 (A) Every employer shall authorize and permit all employees to take
21 rest periods, which insofar as practicable shall be in the middle of
22 each work period. The authorized rest period time shall be based
23 on the total hours worked daily at the rate of ten (10) minutes net
24 rest time per four (4) hours or major fraction thereof. However, a
25 rest period need not be authorized for employees whose total daily
26 work time is less than three and one-half (3 ½) hours. Authorized
27 rest period time shall be counted as hours worked for which there
28 shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this order, the
employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday that the
rest period is not provided.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 64. In relevant part, California Labor Code § 226.7 states:

2 (b) An employer shall not require an employee to work during
3 a meal or rest period mandated pursuant to an applicable
4 statute, or applicable regulation, standard, or order of the
5 Industrial Welfare Commission, the Occupational Safety
6 and Health Standards Board, or the Division of
7 Occupational Safety and Health.

8 (c) If an employer fails to provide an employee a meal period
9 or rest period in accordance with a state law, including, but
10 not limited to, an applicable statute or applicable
11 regulation, standard, or order of the Industrial Welfare
12 Commission, the Occupational Safety and Health
13 Standards Board, or the Division of Occupational Safety
14 and Health, the employer shall pay the employee one
15 additional hour of pay at the employee's regular rate of
16 compensation for each work day that the meal or rest
17 period is not provided.

18 65. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be
19 authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period
20 of work, or major fraction thereof.

21 66. As discussed above, Defendants intentionally failed to authorize and permit
22 Plaintiff and the Class Members to take all 10-minute rest periods free from any work duties in
23 accordance with the Wage Order.

24 67. Furthermore, Defendants failed to pay premium wages to Plaintiff and the Class
25 Members for days on which they failed to authorize and permit Plaintiff and the other Class
26 Members to take timely rest periods.

27 68. Defendants did not seek an exemption from the rest period protections of the Wage
28 Order from the California Division of Labor Standards Enforcement. Moreover, Defendants
29 failed to pay Plaintiff and the Class Members premium wages on workdays they failed to
30 authorize and permit them to take 10-minute rest periods every four hours worked or major
31 fraction thereof.

32 69. Plaintiff is informed and believes and thereon alleges that, at all relevant times
33 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 which resulted in Defendants not authorizing and permitting Plaintiff and the Class Members to
2 take all rest breaks required by California law.

3 70. Defendants failed to provide Plaintiff with all required rest breaks in accordance
4 with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at relevant times
5 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
6 which resulted in Defendants not providing the Class Members with all rest breaks required by
7 California law.

8 71. Defendants failed to pay Plaintiff the additional wages required by California
9 Labor Code § 226.7 for all rest breaks not provided to him. Plaintiff is informed and believes and
10 thereon alleges that, at relevant times within the applicable limitations period, Defendants have
11 maintained a policy, practice, or a lack of a policy which resulted in Defendants not providing the
12 Class Members with additional wages for all rest breaks not provided to them as required by
13 California Labor Code § 226.7.

14 72. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
15 suffered damages in amounts subject to proof to the extent they were not paid additional wages
16 owed for all rest breaks not provided to them.

17 73. By reason of the above, Plaintiff and the Class Members are entitled to premium
18 wages for workdays in which one or more rest breaks were not provided to them pursuant to
19 California Labor Code § 226.7.

20 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
21 **LABOR CODE**

22 74. In relevant part, Labor Code section 558.1 states:

- 23 (a) Any employer or other person acting on behalf of an employer,
24 who violates, or causes to be violated, any provision regulating
25 minimum wages or hours and days of work in any order of the
26 Industrial Welfare Commission, or violates, or causes to be
27 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
28 held liable as the employer for such violation.
- (b) For purposes of this section, the term "other person acting on
behalf of an employer" is limited to a natural person who is an
owner, director, officer, or managing agent of the employer, and



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Robert Lopez was an employer of Ascencio and all of the other Class Members, and/or “owner,” “managing agent,” and/or “officer” of Defendants and the other employers identified above. Robert Lopez was involved in the day-to-day operation of the business and directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Class Members, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Class Members, Ascencio seeks an award of unpaid wages, interest, restitution, statutory penalties, liquidated damages, attorneys’ fees, costs, and related relief against Robert Lopez that is the same as the awards he seeks against the other Defendants on the same grounds for which Plaintiff seeks these awards against all Defendants.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

Lab. Code § 2802

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

75. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

76. In pertinent part, California Labor Code § 2802(a) states: “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

77. California Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

78. At all relevant times, Defendants required Plaintiff and the Class Members to incur certain business expenses in the course of performing their duties.

79. As described above, Defendants required Ascencio and all of the other Class Members to incur certain business expenses in the course of performing their duties. Defendants required Ascencio and all of the other Class members to supply mobile phones to perform their job duties. However, Defendants did not provide these items and did not reimburse Ascencio and the other Class members for these items.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 80. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
2 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
3 failure to indemnify Plaintiff and the Class Members for the reasonable expenses they incurred
4 during the course of performing their duties.

5 81. By reason of the above, Plaintiff and the Class Members are entitled to
6 reimbursement for all necessary expenditures and losses and interest due and owing to within four
7 years (4) of the date of the filing of the Complaint until the date of entry of judgment pursuant to
8 California Labor Code § 2802(b). Further, Plaintiff, on behalf of himself and the members of the
9 Class seek reasonable attorney's fees pursuant to Labor Code § 2802(c).

10 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
11 **LABOR CODE**

12 82. In relevant part, Labor Code section 558.1 states:

- 13 (a) Any employer or other person acting on behalf of an employer,
14 who violates, or causes to be violated, any provision regulating
15 minimum wages or hours and days of work in any order of the
16 Industrial Welfare Commission, or violates, or causes to be
17 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
18 held liable as the employer for such violation.
- 19 (b) For purposes of this section, the term "other person acting on
20 behalf of an employer" is limited to a natural person who is an
21 owner, director, officer, or managing agent of the employer, and
22 the term "managing agent" has the same meaning as in subdivision
23 (b) of Section 3294 of the Civil Code.

24 At all relevant times, Robert Lopez was an employer of Ascencio and all of the other Class
25 Members, and/or "owner," "managing agent," and/or "officer" of Defendants and the other
26 employers identified above. Robert Lopez was involved in the day-to-day operation of the
27 business and directly or indirectly, or through an agent or other person, employed and exercised
28 control over the wages, hours, and/or working conditions of the Class Members, and caused the
violations to the Labor Code and the Wage Order described above. On behalf of himself and all
of the other Class Members, Ascencio seeks an award of unpaid wages, unreimbursed expenses,
interest, restitution, statutory penalties, liquidated damages, attorneys' fees, costs, and related



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 relief against Robert Lopez that is the same as the awards he seeks against the other Defendants
2 on the same grounds for which Plaintiff seeks these awards against all Defendants.

3 **FIFTH CAUSE OF ACTION**

4 **FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS**

5 **Lab. Code §§ 226 and 226.2**

6 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

7 **A. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
8 **STATEMENTS**

9 83. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

10 84. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were
11 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
12 statement showing:

13 A. Gross wages earned;

14 B. Total hours worked by the employee, except for any employee whose
15 compensation is solely based on a salary and who is exempt from payment of overtime under
16 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

17 C. The number of piece rate units earned and any applicable piece rate if the
18 employee is paid on a piece-rate basis;

19 D. All deductions, provided that all deductions made on written orders of the
20 Employee may be aggregated and shown as one item;

21 E. Net wages earned;

22 F. The inclusive dates of the period for which the employee is paid;

23 G. The name of the employee and his or her social security number, except
24 that by January 1, 2008, only the last four digits of his or her social security number or an
25 employee identification number other than a social security number may be shown on the itemized
26 statement;

27 H. The name and address of the legal entity that is the employer; and

28 I. All applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the employee.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 85. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
2 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
3 the employer fails to provide accurate and complete information as required by California Labor
4 Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement
5 alone one or more of the following:

6 A. The amount of the gross wages or net wages paid to the employee during
7 the pay period or any of the other information required to be provided on the itemized wage
8 statement pursuant to California Labor Code § 226(a);

9 B. Which deductions the employer made from gross wages to determine the
10 net wages paid to the employee during the pay period;

11 C. The name and address of the employer and, if the employer is a farm labor
12 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
13 and address of the legal entity that secured the services of the employer during the pay period;

14 D. The name of the employee and only the last four digits of his or her
15 social security number or an employee identification number other than a social security number;
16 and

17 E. The number of piece-rate units earned and the piece rate.

18 86. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
19 means a reasonable person would be able to readily ascertain the information without reference
20 to other documents or information.

21 87. As alleged herein, at all relevant times during the applicable limitations period,
22 Defendants violated California Labor Code section 226 because they did not properly and
23 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
24 the corresponding number of hours worked at each rate by the employee and other requirements
25 of California Labor Code section 226. Defendants failed to state in the wage statements they
26 issued to Plaintiff and the other Class Members all their hours worked and wages earned,
27 including, but not limited to, regular and overtime wages for work they performed off-the-clock
28 after clocking-out (as described above). Defendants knowingly and intentionally did not issue



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 either as a detachable part of the check, draft, or voucher paying the employee's wages, or
2 separately if wages are paid by personal check or cash, statements to Plaintiff and the Class
3 Members that state all minimum wages earned, all regular wages earned, all overtime wages
4 earned, all doubletime wages earned, all meal period premium wages earned, all rest break
5 premium wages earned, all unlawfully deducted wages, gross wages earned, net wages earned,
6 all hours work at each rate of pay, and related information.

7 88. Defendants' failure to provide Plaintiff and the other Class Members with accurate
8 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
9 the other Class Members with accurate wage statements but intentionally provided wage
10 statements that Defendants knew were not accurate.

11 89. As a result of being provided with inaccurate wage statements by Defendants,
12 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive accurate
13 wage statements were violated and they were misled about the amount of wages they had actually
14 earned and were owed. In addition, the absence of accurate information on their wage statements
15 prevented immediate challenges to Defendants' unlawful pay practices, has required discovery
16 and mathematical computations to determine the amounts of wages owed, has caused difficulty
17 and expense in attempting to reconstruct time and pay records and/or has led to the submission of
18 inaccurate information about wages to state and federal government agencies. Further, Plaintiff
19 and the other Class Members were not able to ascertain from the wage statements whether
20 Defendants complied with their obligations under California Labor Code section 226(a).

21 90. Pursuant to California Labor Code § 226(e), Plaintiff and the class are entitled to
22 recover the greater of actual damages, or penalties of fifty dollars (\$50) for the initial pay period
23 in which a violation of California Labor Code § 226(a) occurred and one hundred dollars for
24 each violation of California Labor Code § 226(a) in a subsequent pay period, not to exceed an
25 aggregate penalty of four thousand dollars (\$4,000) per class member, and are also entitled to
26 an award of costs and reasonable attorneys' fees.

27 **B. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
28 **LABOR CODE**

91. In relevant part, Labor Code section 558.1 states:



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

- 1 (a) Any employer or other person acting on behalf of an employer,
2 who violates, or causes to be violated, any provision regulating
3 minimum wages or hours and days of work in any order of the
4 Industrial Welfare Commission, or violates, or causes to be
5 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
6 held liable as the employer for such violation.
7
8 (b) For purposes of this section, the term “other person acting on
9 behalf of an employer” is limited to a natural person who is an
10 owner, director, officer, or managing agent of the employer, and
11 the term “managing agent” has the same meaning as in subdivision
12 (b) of Section 3294 of the Civil Code.

13 At all relevant times, Robert Lopez was an employer of Ascencio and all of the other Class
14 Members, and/or “owner,” “managing agent,” and/or “officer” of Defendants and the other
15 employers identified above. Robert Lopez was involved in the day-to-day operation of the
16 business and directly or indirectly, or through an agent or other person, employed and exercised
17 control over the wages, hours, and/or working conditions of the Class Members, and caused the
18 violations to the Labor Code and the Wage Order described above. On behalf of himself and all
19 of the other Class Members, Ascencio seeks an award of unpaid wages, interest, restitution,
20 statutory penalties, liquidated damages, attorneys’ fees, costs, and related relief against Robert
21 Lopez that is the same as the awards he seeks against the other Defendants on the same grounds
22 for which Plaintiff seeks these awards against all Defendants.

23 **SIXTH CAUSE OF ACTION**

24 **WILLFUL FAILURE TO TIMELY PAY FINAL WAGES**

25 **(Lab. Code §§ 201, 202, and 203)**

26 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

27 92. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

28 93. At all relevant times during the applicable limitations period, Plaintiffs and the
Class have been non-exempt employees of Defendants and entitled to the benefits and protections
of California Labor Code §§ 201, 202, and 203, and the Wage Order.

94. Labor Code § 201 provides that all earned and unpaid wages of an employee who
is discharged are due and payable immediately at the time of discharge.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 95. Labor Code § 202 provides that all earned and unpaid wages of an employee who
2 quits after providing at least 72-hours notice before quitting are due and payable at the time of
3 quitting and that all earned and unpaid wages of an employee who quits without providing at least
4 72-hours notice before quitting are due and payable within 72 hours.

5 96. Defendants failed to pay Ascencio and all of the other Class Members whose
6 employment ended all of the earned but unpaid wages described above by the conclusion of their
7 employment with Ascencio, including minimum wages, regular wages, overtime wages,
8 doubletime wages, unprovided meal period premium wages, unprovided rest break premium
9 wages, deducted wages, and related compensation. Additionally, Defendants failed to issue to
10 Ascencio and all of the other Class members whose employment ended their final paychecks until
11 several days after their termination.

12 97. By failing to pay such earned wages to Plaintiff and the Class Members,
13 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code
14 § 201 or § 202.

15 98. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
16 and the Class Members all of their earned and unpaid wages (described above) have been willful
17 in that, at all relevant times, Defendants have deliberately maintained policies and practices that
18 violate the requirements of the Labor Code and the Wage Order, even though at all relevant times,
19 they have had the ability to comply with those legal requirements.

20 99. Pursuant to Labor Code § 203, Plaintiffs seeks waiting time penalties on behalf of
21 themselves and the Class, in amounts subject to proof not to exceed 30 days of waiting time
22 penalties for each Class Member.

23 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
24 **LABOR CODE**

25 100. In relevant part, Labor Code section 558.1 states:

- 26 (a) Any employer or other person acting on behalf of an employer,
27 who violates, or causes to be violated, any provision regulating
28 minimum wages or hours and days of work in any order of the
Industrial Welfare Commission, or violates, or causes to be
violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

held liable as the employer for such violation.

(b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Robert Lopez was an employer of Ascencio and all of the other Class Members, and/or “owner,” “managing agent,” and/or “officer” of Defendants and the other employers identified above. Robert Lopez was involved in the day-to-day operation of the business and directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Class Members, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Class Members, Ascencio seeks an award of unpaid wages, interest, restitution, statutory penalties, liquidated damages, attorneys’ fees, costs, and related relief against Robert Lopez that is the same as the awards he seeks against the other Defendants on the same grounds for which Plaintiff seeks these awards against all Defendants.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(Bus. & Prof. Code §§ 17200, *et seq.*)

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

101. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

102. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of the Business and Professions Code §§ 17200, *et seq.*

103. The unlawful conduct of Defendants alleged herein amount to and constitutes unfair competition within the meaning of California Business & Professions Code §§ 17200, *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly gained a competitive advantage over other comparable companies doing business in California that comply with their legal obligations to compensate employees for all earned wages.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

104. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the Class Members have suffered injuries in fact and lost money or property. Plaintiff and the Class Members were deprived of minimum wages, regular wages, overtime wages, doubletime wages, missed meal period premium wages, missed rest period premium wages, unlawfully deducted wages, phone expenses, and comparable money and property.

105. Pursuant to California Business & Professions Code § 17203, Plaintiff and the Class Members are entitled to restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of their unlawful and unfair business practices.

106. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in connection with their unfair competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

EIGHTH CAUSE OF ACTION

CIVIL PENALTIES

(Lab Code §§2698, *et seq.*)

(By Plaintiff and the Aggrieved Employees against all Defendants)

107. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

108. The “Aggrieved Employees” are all members of the Class defined above who Defendants employed during the period beginning October 15, 2023 and ending on the date that final judgment is entered in this action.

109. Labor Code § 204 states

(a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. ...

(b) (1) Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 excess of the normal work period during the current pay period are itemized as
2 corrections on the paystub for the next regular pay period. Any corrections set out
3 in a subsequently issued paystub shall state the inclusive dates of the pay period
4 for which the employer is correcting its initial report of hours worked.

5 (c) However, when employees are covered by a collective bargaining
6 agreement that provides different pay arrangements, those arrangements shall
7 apply to the covered employees.

8 (d) The requirements of this section shall be deemed satisfied by the payment
9 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
10 more than seven calendar days following the close of the payroll period.

11 110. Defendants paid wages to employees on regular intervals. Defendants, however,
12 failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information
13 and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such
14 intervals for all wages earned and all hours worked.

15 111. Labor Code section 1174, which also pertains to recordkeeping, states:

16 Every person employing labor in this state shall

17 ...

18 (c) Keep a record showing the names and addresses of all employees
19 employed and the ages of all minors.

20 (d) Keep, at a central location in the state or at the plants or
21 establishments at which employees are employed, payroll records
22 showing the hours worked daily by and the wages paid to, and the number
23 of piece-rate units earned by and any applicable piece rate paid to,
24 employees employed at the respective plants or establishments. These
25 records shall be kept in accordance with rules established for this purpose
26 by the commission, but in any case shall be kept on file for not less than
27 three years. An employer shall not prohibit an employee from maintaining
28 a personal record of hours worked, or, if paid on a piece-rate basis, piece-
rate units earned.

29 112. Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records
required by subdivision (c) of Section 1174 or accurate and complete
records required by subdivision (d) of Section 1174, or to allow any
member of the commission or employees of the division to inspect records
pursuant to subdivision (b) of Section 1174, shall be subject to a civil
penalty of five hundred dollars (\$500).



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

113. Section 7 of Wage Order states,

(A) Every employer shall keep accurate information with respect to each employee, including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which, operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

...

(E) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three (3) years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

114. Defendants failed to compensate Plaintiff and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including all minimum wages earned, and all rest break premium wages earned. As a result, Defendants have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Plaintiff and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period.

115. Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

116. During the applicable time period, Defendants violated California Labor Code §§



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

201, 202, 203, 204, 221, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802.

117. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

118. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved Employees are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 201, 202, 203, 204, 221, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee for each subsequent, willful or intentional violation (penalty amounts established by California Labor Code § 210).

B. For violations of California Labor Code § 226(a), twenty-five dollars (\$25) for each aggrieved employee per pay period for violation of paragraphs (1) to (7), inclusive, or paragraph (9) of subdivision (a) of Section 226 if the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226, the civil penalty applicable under this part for the violation is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer (penalty amounts established by California Labor Code § 2699(f)(2)).

C. For violations of California Labor Code §§ 510 and 512, fifty dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars (\$100.00) for each Aggrieved Employee for each subsequent violation, per pay period (penalty amounts established by California Labor Code § 558).

D. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
2 (regardless of whether the initial violations were intentionally committed) (penalty amounts
3 established by California Labor Code § 1197.1).

4 E. For violations of California Labor Code § 1174, \$500 for Each Aggrieved
5 employee for each violation of Labor Code section 1174 (penalties set by Labor Code
6 section 1174.5).

7 F. For violations of California Labor Code § 221, one hundred dollars
8 (\$100.00) for each Aggrieved Employee per pay period for each initial violation and two hundred
9 dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation
10 (penalty amounts established by California Labor Code § 225.5).

11 G. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
12 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period.
13 The civil penalty is two hundred dollars (\$200) for each aggrieved employee per pay period if
14 either of the following are met: (i) Within the five years preceding the alleged violation, the
15 agency or any court issued a finding or determination to the employer that its policy or practice
16 giving rise to the violation was unlawful or (ii) The court determines that the employer's conduct
17 giving rise to the violation was malicious, fraudulent, or oppressive (penalty amounts established
18 by California Labor Code § 2699(f)(2)).

19 119. Plaintiff has complied with the procedures for bringing suit specified in California
20 Labor Code § 2699.3. By a letter dated October 15, 2024, Plaintiff filed a written notice online
21 with the Labor and Workforce Development Agency ("LWDA") and gave written notice by
22 certified mail to Defendants of the specific provisions of the California Labor Code alleged to
23 have been violated, including the facts and theories to support the alleged violations. A true and
24 correct copy of the notice to the LWDA is attached as Exhibit A. Plaintiff accompanied his
25 LWDA notice with a fee in the amount of \$75.00 each. The LWDA has failed to take action in
26 response within 65 calendar days of the date of Plaintiff's notice, but Plaintiff anticipate that the
27 LWDA will provide written notice to Plaintiff informing him that it does not intend to investigate
28 these allegations.



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 120. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
2 Employees are entitled to an award of civil penalties, reasonable attorney's fees and costs in
3 connection with their claims for civil penalties.

4 **V. PRAYER FOR RELIEF**

5 121. WHEREFORE, Plaintiff, on behalf of himself and the Class Members, prays for
6 relief and judgment against Defendants as follows:

- 7 A. An order that the action be certified as a class action with respect to
8 Plaintiff's claims for violations of California law;
- 9 B. An order that Plaintiff be appointed class representative;
- 10 C. An order that counsel for Plaintiff be appointed class counsel;
- 11 D. Unpaid wages, including minimum, regular, overtime, double-time,
12 missed meal period, and missed rest period wages;
- 13 E. Liquidated damages;
- 14 F. Statutory penalties, including waiting time penalties;
- 15 G. Civil penalties;
- 16 H. Restitution;
- 17 I. Declaratory relief;
- 18 J. Actual damages;
- 19 K. Pre-judgment interest;
- 20 L. Costs of suit;
- 21 M. Reasonable attorneys' fees; and
- 22 N. Such other relief as the Court deems just and proper.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Respectfully submitted,

Dated: December 19, 2024

DAVID G. SPIVAK,
CAROLINE TAHMASSIAN, Attorney
for Plaintiff(s), ARMANDO
ASCENCIO, and all others similarly
situated



Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

EXHIBIT A



THE SPIVAK LAW FIRM

EMPLOYEE RIGHTS

8605 Santa Monica Bl PMB 42554 West Hollywood CA 90069 Mail
1801 Century Park East 25th Fl Los Angeles CA 90067 Office
(213) 725-9094 Tel
(213) 634-2485 Fax
spivaklaw.com Web

SENT BY ELECTRONIC SUBMISSION AND CERTIFIED MAIL

October 15, 2024

Attn: PAGA Administrator
Labor and Workforce Development Agency
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Armando Ascencio / Monarch Litho Inc.

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Armando Ascencio (hereafter “Ascencio” or “Complainant”) provides notice that Monarch Litho Inc., Robert Lopez, George Lopez, Eddie Audelo, and related entities (collectively “the Monarch Employers” or “Monarch”) violated his rights and those of all other individuals the Monarch Employers have employed or otherwise contracted with in California as non-exempt, hourly employees, including, but not limited to mechanics, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 221, 226, 226.7, 510, 512, 1194, 1197, 1198, 1174, 2802, and other Labor Code statutes. On behalf of himself and all other Aggrieved Employees, Ascencio hereby provides this notice to the Labor & Workforce Development Agency and the Monarch Employers and their agents and representatives.

At all relevant times, the Monarch Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Ascencio and all of the other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 4-2001 (hereafter “the Wage Order”) section 2, subdivision (F) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

///

///

Statement of Facts

On approximately September 15, 1999, the Monarch Employers began to employ Ascencio in Montebello in the position of hourly, non-exempt mechanic. The Monarch Employers continuously employed him in that capacity until on or about July 26, 2024 when his employment ended.

At all relevant times, the Monarch Employers issued wages to Ascencio and all of the other Aggrieved Employees on a weekly basis and paid them by the hour. At all relevant times, the Monarch Employers classified Ascencio and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

The Monarch Employers failed to compensate Ascencio and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. The Monarch Employers required Ascencio and all of the other Aggrieved Employees to work off the clock without compensation after they had already clocked out at the end of their shifts. The Monarch Employers further arbitrarily deducted several minutes from the hours Ascencio and all of the other Aggrieved Employees worked and recorded and failed to pay them for all hours worked. For example, for the period of July 22, 2024 to July 28, 2024, Ascencio reported 24 hours and 37 minutes on his time records (in addition to eight (8) hours of sick time). The Monarch Employers, however, compensated him only for 24 hours of worktime (in addition to eight (8) hours of sick time). In other words, the Monarch Employers arbitrarily deducted 37 minutes from Ascencio's hours worked and failed to compensate him for all overtime hours worked. The Monarch Employers also often called Ascencio and all of the other Aggrieved Employees on their days off to discuss work related matters such as the status of the printing machines without compensating them for such hours worked. Further, The Monarch Employers arbitrarily deducted several minutes from Ascencio and all of the other Aggrieved Employees' hours worked if they arrived to work a few minutes after they scheduled start time.

As result of the off the clock work and the deducted wages discussed above, the Monarch Employers also failed to compensate Ascencio and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. The Monarch Employers also failed to compensate Ascencio and all of the other Aggrieved

Employees at the correct rates of pay for all hours worked over 12 in a day, and all over the first eight of the seventh day of the workweek.

At all relevant times, the Monarch Employers failed to provide Ascencio and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. Monarch understaffed its shifts and failed to provide the employees with off-duty, uninterrupted, meal periods before they worked more than five (5) hours in a workday. The Monarch Employers required Ascencio and all of the other Aggrieved Employees to monitor their personal cellphone at all times and respond to their managers' calls and messages even when they tried to take a meal period. On rare occasions that Ascencio and the other Aggrieved Employees were able to take a meal break, it was always after they had already worked more than five (5) hours and it was often interrupted and for less than 30 minutes. Further, Monarch failed to provide a second meal period when the employees worked more than 10 hours in a workday. The Monarch Employers also failed to pay premium wages for days on which they failed to provide Ascencio and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the Monarch Employers failed to authorize and permit Ascencio and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. Monarch never scheduled rest breaks for its employees and failed to provide them with a 10 minute, uninterrupted, off-duty rest break for every four (4) hours worked or major fraction thereof. Further, Monarch failed to provide a third rest break when the employees worked more than 10 hours in a workday. The Monarch Employers also failed to pay premium wages for days on which they failed to authorize and permit Ascencio and all of the other Aggrieved Employees to take rest breaks as required by law.

At all relevant times, the Monarch Employers required Ascencio and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Monarch Employers required Ascencio and all of the other Aggrieved Employees to supply mobile phones to perform their job duties and to communicate with the managers and supervisor. However, the Monarch Employers did not provide these items and did not reimburse Ascencio and the other Aggrieved Employees for their cellphone expenses.

As discussed above, the Monarch Employers unlawfully deducted wages belonging to Ascencio and all of the other Aggrieved Employees.

At all relevant times, the Monarch Employers failed to issue to Ascencio and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The Monarch Employers knowingly and intentionally failed to state on the wage statements they issued to Ascencio and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, gross wages earned, net wages earned, all hours work at each rate of pay, and other required information.

The Monarch Employers also failed to timely pay Ascencio and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment. Monarch also failed to provide the employees with their final wages until days after their last day worked.

The Monarch Employers failed to maintain accurate employee records of Ascencio and all of the other Aggrieved Employees.

For the reasons stated herein, Ascencio alleges the following violations of the Labor Code and the Wage Order on behalf of himself and all of the other Aggrieved Employees:

- (a) The Monarch Employers failed to pay Ascencio and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, overtime, and doubletime wages;
- (b) The Monarch Employers failed to provide Ascencio and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (c) The Monarch Employers failed to authorize and permit Ascencio and all of the other Aggrieved Employees to take rest breaks in compliance with California law;
- (d) The Monarch Employers failed to compensate Ascencio and all of the other Aggrieved Employees at one hour's pay for each day in which the Monarch Employers failed to provide them with one or more meal periods as required by law;

- (e) The Monarch Employers failed to compensate Ascencio and all of the other Aggrieved Employees at one hour's pay for each day in which the Monarch Employers failed to authorize and permit them to take one or more rest breaks as required by law;
- (f) The Monarch Employers failed to indemnify Ascencio and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;
- (g) The Monarch Employers unlawfully deducted wages belonging to Ascencio and all of the other Aggrieved Employees;
- (h) The Monarch Employers knowingly and intentionally failed to provide Ascencio and all of the other Aggrieved Employees with accurate wage statements;
- (i) The Monarch Employers willfully failed to timely pay Ascencio and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the Monarch Employers and when their employment ended; and
- (j) The Monarch Employers failed to maintain accurate employment records pertaining to Ascencio and all of the other Aggrieved Employees.

Accordingly, Ascencio now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees based on the Monarch Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to "all persons employed in professional, technical, mechanical, and similar occupations whether paid on a time, piece rate, commission, or other basis..." Wage Order, § 1. The Wage Order defines "Professional, Technical, Clerical, Mechanical, and Similar Occupations" to include

professional, semiprofessional, managerial, supervisory, laboratory, research, technical, clerical, office work, and mechanical occupations. Said

occupations shall include, but not be limited to, the following: accountants; agents; appraisers; artists; attendants; audio-visual technicians; bookkeepers; bundlers; billposters; canvassers; carriers; cashiers; checkers; clerks; collectors; communications and sound technicians; compilers; copy holders; copy readers; copy writers; computer programmers and operators; demonstrators and display representatives; dispatchers; distributors; door-keepers; drafters; elevator operators; estimators; editors; graphic arts technicians; guards; guides; hosts; inspectors; installers; instructors; interviewers; investigators; librarians; laboratory workers; machine operators; mechanics; mailers; messengers; medical and dental technicians and technologists; models; nurses; packagers; photographers; porters and cleaners; process servers; printers; proof readers; salespersons and sales agents; secretaries; sign erectors; sign painters; social workers; solicitors; statisticians; stenographers; teachers; telephone, radiotelephone, telegraph and call-out operators; tellers; ticket agents; tracers; typists; vehicle operators; x-ray technicians; their assistants and other related occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations

Wage Order, § 2(O). At all relevant times during the applicable limitations period, the Monarch Employers, Ascencio, and all of the Aggrieved Employees were covered by the Wage Order because the Monarch Employers operated, and Ascencio, and all of the Aggrieved Employees, worked for the Monarch Employers as printers, their assistants and other related occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations. Accordingly, Ascencio and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

In relevant part, section 2(K) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so[.]

In relevant part, Labor Code section 1194 states:

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

In relevant part, Labor Code section 510 states:

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. 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 at the rate of no less than twice the regular rate of pay of an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;
- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek; and
- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

In conjunction, these provisions of the Labor Code require employers to pay employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

As discussed above, at all relevant times during the applicable limitations period, the Monarch Employers failed to compensate Ascencio and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, overtime, and doubletime wages for all hours they worked at the correct rates of pay. Accordingly, Ascencio now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

- 1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code § 558);
- 2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));

3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and
4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(K) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In relevant part, section 11 of the Wage Order states:

Meal Periods

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. . . .
- (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, 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.

As discussed above, at all relevant times, the Monarch Employers failed to provide Ascencio and all of the other Aggrieved Employees with all timely, off-duty, 30 minute

meal periods. Further, Monarch failed to provide a second meal period when the employees worked more than 10 hours in a workday. Furthermore, the Monarch Employers failed to pay premium wages for days on which they failed to provide Ascencio and all of the other Aggrieved Employees with timely meal periods. Accordingly, Ascencio now seeks civil penalties for these Labor Code violations that the Monarch Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));
2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and
3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(K) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, 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.

As discussed above, the Monarch Employers failed to authorize and permit Ascencio and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks

every four hours worked or major fraction thereof. The Monarch Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Moreover, the Monarch Employers failed to pay Ascencio and all of the other Aggrieved Employees premium wages on workdays the Monarch Employers failed to provide Ascencio and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof. Accordingly, Ascencio now seeks civil penalties for these Labor Code violations that the Monarch Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code §§ 1198 and 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

Additionally, the Wage Order states,

- (A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.
...
- (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily

required by the trade or craft.

Wage Order, § 9(B).

Labor Code Section 1198 prohibits an employer from employing any person under conditions that violate the Wage Order.

As described above, the Monarch Employers required Ascencio and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Monarch Employers required Ascencio and all of the other Aggrieved Employees to supply mobile phones to perform their job duties. However, the Monarch Employers did not provide these items and did not reimburse Ascencio and the other Aggrieved Employees for these items. Accordingly, Ascencio seeks civil penalties for these Labor Code violations that the Monarch Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Unlawful Deductions
(Lab. Code § 221)

Under Labor Code § 221, “It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” As discussed above, the Monarch Employers deducted wages from the wages earned by Ascencio and all of the other Aggrieved Employees in violation of Labor Code § 221. Accordingly, Ascencio seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code § 221, and \$200 for each aggrieved employee for each subsequent violation, or any willful or intentional violation of Labor Code § 221, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code § 225.5).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

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, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
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.

At all relevant times during the applicable limitations period, the Monarch Employers violated Labor Code section 226 because they did not properly and accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours

worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The Monarch Employers failed to state in the wage statements they issued to Ascencio and all of the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock (as described above). The Monarch Employers knowingly and intentionally failed to state on the wage statements they issued to Ascencio and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, gross wages earned, net wages earned, all hours work at each rate of pay, and other required information.

Accordingly, Ascencio seeks civil penalties for the Labor Code violations that the Monarch Employers have committed against him and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The Monarch Employers failed to compensate Ascencio and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, deducted wages, and other compensation, at the intervals stated above. As a result, the Monarch Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly,

Ascencio now seeks civil penalties for the Labor Code violations that the Monarch Employers have committed against him and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The Monarch Employers failed to pay Ascencio and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Ascencio, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, deducted wages, and other compensation. Additionally, the Monarch Employers failed to issue to Ascencio and all of the other Aggrieved Employees whose employment ended their final paychecks until days after the termination. By failing to pay Ascencio and all of the other Aggrieved Employees as set forth above at the end of employment, the Monarch Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of

himself and all of the other Aggrieved Employees, Ascencio seeks civil penalties from the Monarch Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.
- (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, 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. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer

shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order states,

- (a) Every employer shall keep accurate information with respect to each employee including the following:
 - (1) Full name, home address, occupation, and social security number.
 - (2) Birth date, if under 18 years, and designation as a minor.
 - (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
 - (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.
 - (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
 - (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall

be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The Monarch Employers failed to compensate Ascencio and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, gross wages earned, net wages earned, all hours work at each rate of pay, and related compensation. As a result, the Monarch Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Ascencio and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, Ascencio seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Person Acting on Behalf of Employers who Violates Labor Code
(Labor Code § 558.1)

In relevant part, Labor Code section 558.1 states:

- (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

LWDA / The Monarch Employers

Re: Armando Ascencio

October 15, 2024

Page 21 of 22

- (b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Robert Lopez, George Lopez, and Eddie Audelo were the employers of Ascencio and all of the other Aggrieved Employees, and/or “owners,” “managing agents,” and/or “officers” of the Monarch Employers and the other employers identified above. Robert Lopez, George Lopez, and Eddie Audelo were involved in the day-to-day operation of the business and directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Aggrieved Employees, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Aggrieved Employees, Ascencio seeks the same civil penalties against Robert Lopez on the same grounds for which he seeks civil penalties against the Monarch Employers.

Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Armando Ascencio will seek both reasonable attorneys’ fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



David Spivak, Esq.

David@spivaklaw.com

cc: Armando Ascencio

///

///

LWDA / The Monarch Employers

Re: Armando Ascencio

October 15, 2024

Page 22 of 22

Monarch Litho Inc.
Robert Lopez
c/o Agent for service of process
1501 Date Street
Montebello, CA 90640

Monarch Litho Inc.
Robert Lopez
1501 Date Street
Montebello, CA 90640

Monarch Litho Inc.
George Lopez
1501 Date Street
Montebello, CA 90640

Monarch Litho Inc.
Eddie Audelo
1501 Date Street
Montebello, CA 90640

1 PROOF OF SERVICE

2
3 State of California,
4 County of Los Angeles

5 1. I am a citizen of the United States and am employed in the County
6 of Los Angeles, State of California. I am over the age of 18 years, and not a
party to the within action. My business address is 1801 Century Park East,
25th Fl, Los Angeles, CA 90067.

7 2. I am familiar with the practice of The Spivak Law Firm, for
8 collection and processing of correspondence for mailing with the United
9 States Postal Service. It is the practice that correspondence is deposited
with the United States Postal Service the same day it is submitted for
mailing.

10 On Thursday, December 19, 2024, I served the foregoing document
11 described as **FIRST AMENDED COMPLAINT** on interested parties by placing a true
and correct copy thereof enclosed in a sealed envelope, with postage fully
prepaid, addressed as follows:

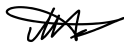
12 **Alfred J. Landegger, Esq.**
13 **James M. Bacon, Esq.**
14 **Landegger Verano & Davis, ALC**
15 **15760 Ventura Blvd., Suite 1200**
16 **Encino, CA 91436**
alfred@landeggeresq.com
james@landeggeresq.com

17 XXXX (BY EMAIL) I caused the documents to be sent to the persons at the
18 electronic service addresses listed above from my electronic service address
laura@spivaklaw.com

19 EXECUTED on Thursday, December 19, 2024, at Tarzana, California.

20 XXXX (State) I declare under penalty of perjury under the laws of the State
21 of California that the above is true and correct.

22 _____ (Federal) I declare that I am employed in the office of a member of the
23 bar of this court at whose direction the service was made.

24 
25 _____
26 LAURA SOLORZANO
27
28