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VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Arturo Cruz Sanchez v. Blazona Concrete Construction, Inc.*

Dear PAGA Administrator:

This office represents Arturo Cruz Sanchez in connection with his claims under the California Labor Code. Mr. Cruz Sanchez was an employee of BLAZONA CONCRETE CONSTRUCTION, INC. ("BLAZONA").

The employer may be contacted directly at the address below:

BLAZONA CONCRETE CONSTRUCTION, INC.
525 HARBOR BLVD, SUITE 10
WEST SACRAMENTO, CA 95691

Mr. Cruz Sanchez intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Cruz Sanchez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by BLAZONA as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

BLAZONA employed Mr. Cruz Sanchez as an hourly paid, non-exempt employee from approximately May 2020 to June 2024. Mr. Cruz Sanchez worked for BLAZONA as a Clean & Spread and Footing Crew Laborer. During his employment, Mr. Cruz Sanchez typically worked eight (8) hours or more per day and five (5) days or more per week. At the time Mr. Cruz Sanchez's employment with BLAZONA ended, he earned approximately \$30.00 per hour. His job duties included, without limitation, performing site preparation, securing forms for footings and foundations, assisting with concrete pouring and spreading, placing and securing rebar for housing structures, and loading and unloading materials.

BLAZONA committed each of the following Labor Code violations against Mr. Cruz Sanchez, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

BLAZONA’s Company-Wide and Uniform Payroll and HR Practices

BLAZONA CONCRETE CONSTRUCTION, INC. is a California corporation that provides commercial and residential concrete construction services across Northern California. Upon information and belief, BLAZONA maintains a single, centralized Human Resources (HR) department at its corporate headquarters in West Sacramento, California, for all non-exempt, hourly paid employees working for BLAZONA in California, including Mr. Cruz Sanchez and other aggrieved employees. At all relevant times, BLAZONA issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Cruz Sanchez and other aggrieved employees, regardless of their location or position.

Upon information and belief, BLAZONA maintains a centralized Payroll department at its corporate headquarters in West Sacramento, California, which processes payroll for all non-exempt, hourly paid employees working for BLAZONA in California, including Mr. Cruz Sanchez and other aggrieved employees. Further, BLAZONA issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees in California, including Mr. Cruz Sanchez and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, BLAZONA utilized the same methods and formulas when calculating wages due to Mr. Cruz Sanchez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

BLAZONA willfully failed to pay all overtime wages owed to Mr. Cruz Sanchez and other aggrieved employees. During the relevant time period, Mr. Cruz Sanchez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in

¹ These facts, theories, and claims are based on Mr. Cruz Sanchez’s experience and counsel’s review of those records currently available relating to Mr. Cruz Sanchez’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Cruz Sanchez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, on information and belief, during the relevant time period, BLAZONA had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Cruz Sanchez and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. As stated in BLAZONA's "Rules of the Job" document, employees are instructed, "Do not exceed 40 work hours per week" and, "[f]ailure to comply with any of the above will result in immediate termination." To enforce this policy, BLAZONA had, and continues to have, a company-wide policy and/or practice of failing to accurately record hours worked by their employees. Specifically, BLAZONA failed to implement a timekeeping system at its jobsites and did not provide employees with any mechanism, such as a time clock or electronic timekeeping system, to accurately track and record their hours worked. Instead, BLAZONA's company-wide policy and/or practice is to require employees, including Mr. Cruz Sanchez and other aggrieved employees, to sign blank timesheets presented to them by BLAZONA's foremen at the end of each day. Upon information and belief, BLAZONA's foremen subsequently input all employee time onto the signed timesheets, and submit them to management at the end of each pay period for review and approval. Because BLAZONA failed to provide Mr. Cruz Sanchez and other aggrieved employees with any mechanism to record their actual hours worked themselves and, instead, granted BLAZONA's foremen exclusive control and discretion over employee time records whereby actual hours worked were not recorded by BLAZONA's foremen, Mr. Cruz Sanchez and other aggrieved employees were not paid for all hours worked.

Moreover, on information and belief, when BLAZONA's foremen completed these handwritten timesheets, BLAZONA's management would only record Mr. Cruz Sanchez's and other aggrieved employees' hours according to their scheduled shift start and end times, instead of their actual hours worked. For example, BLAZONA sometimes required Mr. Cruz Sanchez and other aggrieved employees to report to BLAZONA's main yard before their scheduled shifts to load equipment and materials onto BLAZONA's and employees' trucks, which could take up to 45 minutes. As another example, Mr. Cruz Sanchez was sometimes required to continue working at BLAZONA's jobsites for up to one (1) hour after his scheduled shift end-time, but before he could leave for the day. However, because BLAZONA did not provide him with a mechanism to record this time worked, and because BLAZONA's foremen would only record an employee's scheduled hours, Mr. Cruz Sanchez was never paid for this time worked outside of his scheduled shifts.

Additionally, during the relevant time period, BLAZONA required Mr. Cruz Sanchez and other aggrieved employees to travel to distant jobsites and assignments, but did not compensate them for their time spent traveling to and from these locations. Although Mr. Cruz Sanchez and other aggrieved employees sometimes met at BLAZONA's main yard to travel to jobsites, BLAZONA would also require Mr. Cruz Sanchez and other aggrieved employees to drive their personal vehicles to distant jobsites. For example, BLAZONA sometimes required Mr. Cruz Sanchez to drive for approximately 60 miles or more from his home in Sacramento, California, to various jobsites, including but not limited to those in Colusa, California. However, Mr. Cruz Sanchez and other aggrieved employees were not allowed to clock in until arriving at the assigned jobsite for the start of their scheduled shifts, and thus were not paid for any time spent traveling to or from the distant jobsite. Thus, Mr. Cruz Sanchez and other aggrieved employees were not compensated for this travel time, despite being under the direction and control of BLAZONA.

Second, upon information and belief, during the relevant period, BLAZONA had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out times to the nearest quarter (0.25) of an hour. BLAZONA's rounding policy resulted in the failure to compensate Mr. Cruz Sanchez and other aggrieved employees fully for all hours worked, causing Mr. Cruz Sanchez and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, BLAZONA's rounding policy was, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Mr. Cruz Sanchez and other aggrieved employees. To the extent BLAZONA's rounding policy took away time worked that was eligible for overtime, Mr. Cruz Sanchez and other aggrieved employees were denied overtime pay for all hours worked.

Third, BLAZONA had, and continues to have, company-wide policies and/or practices of understaffing its jobsites while assigning heavy workloads. BLAZONA's policies and/or practices resulted in a failure to provide Mr. Cruz Sanchez and other aggrieved employees with adequate meal period coverage, and thus, Mr. Cruz Sanchez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. BLAZONA also had a practice of failing to schedule meal periods, which further caused Mr. Cruz Sanchez and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Cruz Sanchez worked through his meal periods and had them cut short in order to keep up with the demands of work and complete his assigned duties, often only being able to quickly eat something in the 10 minutes' time when another employee was pouring concrete. Thus, Mr. Cruz Sanchez and other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. BLAZONA did not compensate Mr. Cruz Sanchez and other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

Fourth, BLAZONA's company-wide timekeeping practices and/or policies do not allow employees to track the actual start and end times of meal periods or report a short, missed, or interrupted meal period (*see supra*). As stated, because BLAZONA's foremen logged the start and end times of meal periods on handwritten timesheets only after Mr. Cruz Sanchez and other aggrieved employees had signed them, BLAZONA, upon information and belief, would record that compliant meal periods were taken, even if that was not the case, in order to strictly limit meal period premiums that BLAZONA would otherwise owe. Because BLAZONA failed to implement any sort of timekeeping system for tracking and recording meal periods and prohibited employees from recording a short, missed, or interrupted meal period, Mr. Cruz Sanchez and other aggrieved employees were not paid for all hours worked.

BLAZONA knew or should have known that as a result of these company-wide practices and/or policies, Mr. Cruz Sanchez and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Cruz Sanchez and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Cruz Sanchez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Moreover, BLAZONA did not pay Mr. Cruz Sanchez and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, BLAZONA paid Mr. Cruz Sanchez and other aggrieved employees incentive pay, nondiscretionary

bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, BLAZONA failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Mr. Cruz Sanchez and other aggrieved employees worked overtime and received these other forms of pay, BLAZONA failed to pay all overtime wages by paying a lower overtime rate than required.

For example, BLAZONA paid Mr. Cruz Sanchez and other aggrieved employees incentive pay and/or nondiscretionary bonuses which were listed on Mr. Cruz Sanchez's and other aggrieved employees' wage statements as "Bonus - Saturday." During pay periods that Mr. Cruz Sanchez and other aggrieved employees were paid overtime wages, BLAZONA did not incorporate the incentive pay and/or nondiscretionary bonuses into Mr. Cruz Sanchez's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, BLAZONA paid Mr. Cruz Sanchez and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. BLAZONA's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Cruz Sanchez and other aggrieved employees on a company-wide basis.

BLAZONA's failure to pay Mr. Cruz Sanchez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 16-2001 as "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." Cal. Code Regs. tit. 8, § 11160(2)(J) (defining "Hours Worked").

First, as set forth above, BLAZONA had, and continues to have, company-wide policies and/or practices of discouraging and impeding Mr. Cruz Sanchez and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. BLAZONA failed to provide Mr. Cruz Sanchez and other aggrieved employees with any mechanism to track and record their actual hours worked themselves and, instead, granted BLAZONA's foremen exclusive control and discretion over employee time records. On information and belief, when BLAZONA's foremen completed these handwritten timesheets, BLAZONA's management would only record Mr. Cruz Sanchez's and other aggrieved employees' hours according to their scheduled shift start and end-times, instead of their actual hours worked.

Pursuant to these timekeeping practices, Mr. Cruz Sanchez and other aggrieved employees were required to perform work before and after their scheduled shifts, including, but not limited to,

reporting to BLAZONA's main yard to load equipment and materials onto BLAZONA's and employees' trucks before scheduled shift start-times, or continuing to work at BLAZONA's jobsites after scheduled shift end-times, without being compensated for the time they worked. Additionally, as stated, BLAZONA required Mr. Cruz Sanchez and other aggrieved employees to travel to distant jobsites and assignments, but they were not allowed to clock in until arriving at the assigned jobsite for the start of their scheduled shifts, and thus were not paid for any time spent traveling to or from the distant jobsite.

Second, as stated, BLAZONA had a company-wide policy and/or practice of rounding Mr. Cruz Sanchez's and other aggrieved employees' hourly clock-in and clock-out times in its timekeeping system to the nearest quarter hour, resulting in the failure to compensate them for all hours worked.

Third, as also stated, due to BLAZONA's policies and/or practices of understaffing its jobsites while assigning heavy workloads, and failing to schedule meal periods, Mr. Cruz Sanchez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Moreover, as stated, BLAZONA's company-wide timekeeping practices and/or policies do not allow employees to track the actual start and end times of meal periods or report a short, missed, or interrupted meal period. Because BLAZONA failed to implement any sort of timekeeping system for tracking and recording meal periods in real-time and prohibited employees from recording a short, missed, or interrupted meal period, Mr. Cruz Sanchez and other aggrieved employees were not paid for all hours worked during meal periods. Thus, BLAZONA systematically failed to pay Mr. Cruz Sanchez and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

BLAZONA did not pay at least minimum wages for all hours worked by Mr. Cruz Sanchez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, BLAZONA did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, BLAZONA regularly failed to pay at least minimum wages to Mr. Cruz Sanchez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period

may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (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.

First, during the relevant time period, BLAZONA maintained a company-wide, unlawful written meal period policy insofar as it fails to state, whatsoever, the timing of when meal periods must occur. Under California law, first meal periods must start after no more than five hours of work. *Brinker*, 53 Cal. 4th at 1041-1042. However, BLAZONA's written meal period policy states (translated from Spanish to English), in part: The supervisors are to arrange a break and meal periods to accommodate the operational requirements of work. Employees will be given time off from all active responsibilities and restrictions during meal periods and will not be compensated for that time. Meal periods will be at least thirty minutes in length. These meal periods must be recorded on all time sheets. Typical work day is 07 a.m.-03:30 p.m.² Notably absent from BLAZONA's written policy, is any mention of when the first meal period must take place (i.e., within the first five (5) hours of work) under California law and is therefore facially invalid.

Second, as stated, BLAZONA had, and continues to have, company-wide policies and/or practices of understaffing while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Mr. Cruz Sanchez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, BLAZONA had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Mr. Cruz Sanchez and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Cruz Sanchez and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Cruz Sanchez worked through his meal periods and had them cut short in order to keep up with the demands of work and complete his assigned duties, often only being able to quickly eat something in the 10 minutes' time when another employee was pouring concrete. Additionally, Mr. Cruz Sanchez regularly took his meal periods late, after the fifth hour of work, due to the lack of meal period coverage.

Third, BLAZONA's company-wide timekeeping practices and/or policies do not allow employees to track the actual start and end times of meal periods or report a short, missed, or interrupted meal period. As stated, because BLAZONA's foremen logged the start and end times of meal periods on the handwritten timesheets only after Mr. Cruz Sanchez and other aggrieved employees had signed them, BLAZONA, upon information and belief, would record that compliant meal periods were

² "Los supervisores a organizar un descanso y almuerzo períodos para acomodarlos requisitos de operación. Los empleados se les dará de descanso todas las responsabilidades activas y restricciones durante los períodos de comida y no serán compensados por ese tiempo. Los períodos de comida serán por lo menos treinta (30) minutos de duración. Estos períodos de comida deben ser registradas en todas las hojas de tiempo empleado. día de trabajo típico es 07 a.m.-3:30 p.m."

taken, even if that was not the case, in order to strictly limit meal period premiums that BLAZONA would otherwise owe.

Fourth, Mr. Cruz Sanchez and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. For example, during his employment, Mr. Cruz Sanchez sometimes worked shifts in excess of ten (10) or more hours per day, but was not provided a second 30-minute meal period. Mr. Cruz Sanchez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, BLAZONA knew or should have known that, as a result of these policies, Mr. Cruz Sanchez and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. BLAZONA further knew or should have known that BLAZONA did not pay Mr. Cruz Sanchez and other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late. Further, to the extent that BLAZONA's rounding policy reported that Mr. Cruz Sanchez and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Mr. Cruz Sanchez and other aggrieved employees did not receive meal period premiums for these improperly rounded meal periods.

In addition, BLAZONA engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Mr. Cruz Sanchez and other aggrieved employees have not received premium pay for all missed, interrupted, or late meal periods. Alternatively, to the extent that BLAZONA did pay Mr. Cruz Sanchez and other aggrieved employees premium pay for missed, late, and interrupted meal periods, BLAZONA did not pay Mr. Cruz Sanchez and other aggrieved employees at the correct rate of pay for premiums because BLAZONA systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, BLAZONA failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "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” unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016). Under IWC Wage Order No. 16-2001, subdivision 11(B), rest periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the product or process of the work. However, the employer shall make up the missed rest period within the same workday or compensate the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay within the same pay period.

During the relevant time period, BLAZONA regularly failed to authorize and permit Mr. Cruz Sanchez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. BLAZONA maintained and implemented, on a company-wide basis, a non-compliant written rest period policy that prevented Mr. Cruz Sanchez and other aggrieved employees from taking compliant rest periods. Specifically, BLAZONA’s non-compliant written rest period policy fails to correctly state the duration of rest periods and timing of when rest periods must occur. The policy states (translated from Spanish to English), in relevant part: “Rest periods will be given and are **typically** 10 minutes long. Supervisors will decide these rest periods whenever practical.”³ (Emphasis added). However, under California law, an employee is entitled to ten (10) minutes net rest time per four (4) hours or major fraction thereof. Thus, BLAZONA’s written rest period policy is non-compliant on its face, as it fails to authorize and permit employees to take a net ten (10) minutes for rest periods, and take a first rest period for shifts between 3.5 and 6 hours, and a second rest period for shifts between 6 and 10 hours.

Additionally, as with meal periods, BLAZONA’s company-wide practices, including understaffing and assigning heavy workloads, prevented Mr. Cruz Sanchez and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, BLAZONA failed to schedule rest periods, which, coupled with BLAZONA’s failure to provide adequate rest period coverage, further led to Mr. Cruz Sanchez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, BLAZONA maintained a company-wide on-premises rest period policy, which effectively required that Mr. Cruz Sanchez and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Cruz Sanchez and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, BLAZONA effectively maintained control over Mr. Cruz Sanchez and other aggrieved employees during rest periods.

As a result of BLAZONA’s practices and policies, Mr. Cruz Sanchez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, Mr. Cruz Sanchez

³ “Los periodos de descanso serán dadas y son típicamente de 10 minutos de duración. Los supervisors decidirán estos periodos de descanso siempre que sea práctico.”

had to forgo all of his rest periods due to the lack of coverage and BLAZONA's failure to schedule rest periods for employees.

BLAZONA also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Cruz Sanchez and other aggrieved employees have not received all premium pay for missed rest periods. Alternatively, to the extent that BLAZONA did pay Mr. Cruz Sanchez and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, BLAZONA did not pay Mr. Cruz Sanchez and other aggrieved employees at the correct rate of pay for premium wages because BLAZONA failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of compensation, in the regular rate of pay.

Accordingly, BLAZONA failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, BLAZONA has knowingly and intentionally provided Mr. Cruz Sanchez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, BLAZONA issued uniform wage statements to Mr. Cruz Sanchez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, BLAZONA violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because BLAZONA did not record the time Mr. Cruz Sanchez and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), BLAZONA did not list the correct amount of gross wages and net wages earned by Mr. Cruz Sanchez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, BLAZONA failed to accurately list the total number of hours worked by Mr. Cruz Sanchez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period

and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Moreover, because BLAZONA did not calculate Mr. Cruz Sanchez's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, BLAZONA did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, BLAZONA failed to list the correct amount of net wages in violation of section 226(a)(5). BLAZONA also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, 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" Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), BLAZONA willfully failed to maintain accurate payroll records for Mr. Cruz Sanchez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Mr. Cruz Sanchez's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, BLAZONA engaged in company-wide practices and/or policies of failing to record actual hours worked and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Cruz Sanchez and other aggrieved employees in violation of section 1198. Also, in light of BLAZONA's failure to provide Mr. Cruz Sanchez and other aggrieved employees with second 30-minute meal periods to which they were entitled, BLAZONA kept no records of meal start and end times for second meal periods.

Because BLAZONA failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Cruz Sanchez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Cruz Sanchez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct

time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that 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. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, BLAZONA willfully failed to pay Mr. Cruz Sanchez and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy two (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.

BLAZONA willfully failed to pay Mr. Cruz Sanchez and other aggrieved employees who are no longer employed by BLAZONA the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving BLAZONA's employ.

Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. California Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) “[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]” or 2) “[p]aid sick time for nonexempt employees shall be calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

During the relevant time period, BLAZONA did not pay Mr. Cruz Sanchez and other aggrieved employees the correct sick leave rates of pay. BLAZONA failed to correctly use either method of calculation under Labor Code section 246(l) to determine Mr. Cruz Sanchez’s and other aggrieved employees’ sick leave rates of pay. As stated, in addition to an hourly wage, BLAZONA paid Mr. Cruz Sanchez and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, BLAZONA failed to incorporate all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when Mr. Cruz Sanchez and other aggrieved employees took sick leave and received these other forms of pay, BLAZONA failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, BLAZONA paid Mr. Cruz Sanchez and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

BLAZONA’s failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Mr. Cruz Sanchez and other aggrieved employees on a company-wide basis in violation of California Labor Code section 246(l).

Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with Labor Code section 246, pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 16-2001, provides that: “[w]hen the employer requires the use of tools or equipment or they 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”

During the relevant time period, Mr. Cruz Sanchez and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but BLAZONA failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Mr. Cruz Sanchez would use his personal cellular phone to converse with his foreman and supervisors about work-related matters and for GPS navigation when driving to the various jobsites for assignments. Although BLAZONA required Mr. Cruz Sanchez and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, BLAZONA failed to reimburse them for these costs.

Additionally, during the relevant time period, BLAZONA had a company-wide policy of requiring Mr. Cruz Sanchez and other aggrieved employees to utilize their own personal vehicles to carry out company business, but failed to reimburse them for all costs of travel, including mileage. Specifically, BLAZONA required Mr. Cruz Sanchez and other aggrieved employees to travel to distant jobsites and assignments, but did not reimburse them for all travel expenses. For example, BLAZONA sometimes required Mr. Cruz Sanchez to drive his personal vehicle for 35 miles or more from BLAZONA's main yard in West Sacramento, California, to various jobsites, including those in Plumas Lake and Colusa, California. Although BLAZONA required Mr. Cruz Sanchez and other aggrieved employees to utilize their own vehicles to carry out their work-related responsibilities, BLAZONA did not reimburse them for all of their travel expenses.

BLAZONA could have provided Mr. Cruz Sanchez and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles. Or, BLAZONA could have reimbursed employees for their mobile device usage, mileage, and travel expenses. Instead, BLAZONA passed these operating costs onto Mr. Cruz Sanchez and other aggrieved employees.

Thus, BLAZONA had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the

use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

On information and belief, BLAZONA failed, on a company-wide basis, to provide written notice to Mr. Cruz Sanchez and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). BLAZONA's failure to provide Mr. Cruz Sanchez and other aggrieved employees with written notice of basic information regarding their employment with BLAZONA is in violation of California Labor Code section 2810.5.

Mr. Cruz Sanchez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLAZONA into compliance with Labor Code section 2810.5, pursuant to Labor Code sections 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." BLAZONA, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Cruz Sanchez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Cruz Sanchez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Cruz Sanchez acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against BLAZONA for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Cruz Sanchez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

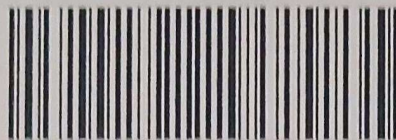
Best Regards,

A handwritten signature in black ink, appearing to read "Anthony Castillo", with a stylized flourish at the end.

Anthony Castillo

Copy: BLAZONA CONCRETE CONSTRUCTION, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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