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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

FEB 13 2025

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MANUEL MATA on behalf of
himself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MANUEL MATA, an individual, on behalf of
himself, all aggrieved employees, and the State
of California as a Private Attorneys General,

Plaintiff,

vs.

HUSSMANN CORPORATION, a Missouri
corporation, and DOES 1-50, inclusive,

Defendant.

Case No.: **CIVRS 250 09 4 2**

REPRESENTATIVE ACTION

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 *et seq.***

1 Plaintiff MANUEL MATA brings this PAGA representative action complaint on behalf of
2 himself, all aggrieved employees, and the State of California as a Private Attorneys General, and
3 alleges as follows:

4 NATURE OF THE ACTION

5 1. Plaintiff MANUEL MATA worked as an employee for Defendant HUSSMANN
6 CORPORATION and Does 1-50 (collectively “Defendant”). Defendant is a manufacturer of
7 display cases, refrigeration systems, and other food merchandising products. Plaintiff MANUEL
8 MATA is a current employee of Defendant, where he has worked for the past 8 years as a Material
9 Handler at Defendant's Chino, California, facility. Plaintiff brings this action pursuant to the
10 Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a
11 representative basis. All current and former hourly, nonexempt employees of Defendant within
12 one year of serving notice on the LWDA to the present are aggrieved employees.

13 2. Defendant failed to comply with California Labor Code requirements due to erroneous,
14 willful and intentional employment practices and policies. Plaintiff brings this representative
15 action on behalf of himself, all other similarly situated aggrieved employees, and the State of
16 California, based upon the claims articulated below. Plaintiff provided notice of their claims
17 pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as
18 illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The
19 LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice
20 period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil
21 penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

22 3. Defendant has had a consistent policy and/or practice of: (1) failing to pay for all hours
23 worked, including overtime hours worked; (2) failing to pay all wages owed twice per month; (3)
24 failing to pay minimum wage; (4) failing to provide rest breaks; (5) failing to permit compliant
25 meal breaks; (6) failing to provide proper cool-down rest periods; (7) failing to provide safe
26 working conditions – excessive heat; (8) failing to provide accurate itemized wage statements and
27 violating record keeping requirements. Defendant is therefore liable for civil penalties under the
28

1 Cal. Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et*
2 *seq.*, as described more fully herein.

3 **THE PARTIES**

4 4. Plaintiff MANUEL MATA is a resident of the State of California and is a current
5 employee of Defendant, where he has worked for the past 8 years as a Material Handler at
6 Defendant's Chino, California, facility.

7 5. Defendant HUSSMANN CORPORATION is a Missouri corporation authorized to do
8 business and doing business in California with the capacity to sue and to be sued, and doing
9 business, in the county of San Bernardino, State of California.

10 6. Plaintiff is unaware of the true names, capacities, relationships, and extent of
11 participation in the conduct alleged herein, of the Defendant sued as DOES 1 through 50, but is
12 informed and believes and thereon alleges that said Defendant is legally responsible for the
13 wrongful conduct alleged herein and therefore sues Defendant by such fictitious names, Plaintiff
14 will amend this complaint when their true names and capabilities are ascertained.

15 7. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
16 indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees
17 of the representative class, and exercised control over their wages, hours, and working conditions.
18 Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects
19 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
20 plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable
21 to the other Defendants.

22 **JURISDICTION AND VENUE**

23 8. Venue is proper in this judicial district because Defendant conducts business in this
24 county and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees
25 in this case that arose in this county.

26 9. The statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of
27 the Superior Court and will be established according to proof at trial. Based on information,
28 investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for

1 monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars
2 (\$25,000).

3 10. The California Superior Court has jurisdiction in this matter because Plaintiff is a
4 resident of California and Defendant is qualified to do business in California and regularly conduct
5 business in California. Further, there is no federal question at issue as the claims herein are based
6 solely on California law.

7 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

8 11. During the relevant time-period, Defendant committed various violations of the
9 California Labor Code as alleged below in more detail. Defendant enforces multiple policies that
10 violate state law, which are intended to increase profits to the detriment of aggrieved employees.

11 12. This representative action represents over one hundred current and former aggrieved
12 employees.

13 13. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
14 to the present, Defendant engaged in unlawful employment practices that resulted in violations of
15 numerous Labor Code sections, as set forth more fully below.

16 14. Plaintiff and all current and former hourly, nonexempt employees within one year of
17 filing this action to the present are aggrieved employees within the meaning of Labor Code 2699,
18 *et seq.* (See Labor code §2699(c).)

19 15. Defendant, and each of them, have committed the following violations of the California
20 Labor Code:

21 **Failure to Pay For All Hours Worked, Including Overtime Hours Worked**

22 (Cal. Labor Code §§200, 204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 351, 510, 558,
23 1194, 1197, 1197.1, 1198, 2698 *et seq.*, IWC Wage Orders)

24 16. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
25 incorporates said paragraphs herein by reference.

26 17. The Wage Orders define "hours worked" as "the time during which an employee is
27 subject to the control of an employer, and including all the time the employee is suffered or
28 permitted to work, whether or not required to do so." Defendant has been engaged in many

1 unlawful employment practices which resulted in underpayment for hours worked each pay period,
2 including overtime hours worked, as more fully set forth below. Defendant has also failed to pay
3 the required minimum wage for all hours worked, and failed to pay overtime, sick pay, premium
4 wages, and vacation wages at the correct regular rate of pay.

5 18. Off-the-Clock Hours Worked. Defendant requires its hourly employees to go through
6 various levels of security including a metal detector and swinging-bar rotating gates, into the
7 facility and then to the breakroom where Plaintiff and aggrieved employees were able to clock in.
8 Plaintiff and aggrieved employees don safety apparel prior to entering the building, which is prior
9 to clocking in.

10 19. Plaintiff alleges that there was consistent stress and pressure concerning clock-in
11 procedures because employees would be in trouble if they clocked in one minute late. Plaintiff and
12 aggrieved employees were also required to go through various levels of security to enter and walk
13 to the timeclock when returning from unpaid lunch periods if they chose to leave the building
14 which further contributed to unpaid hours worked.

15 20. When employees earning minimum wage do not receive payment for all hours worked,
16 including off-the-clock and overtime hours worked, the result is that they are earning less than the
17 statutory minimum wages for all hours worked, in violation of Labor Code §1197.

18 21. Unpaid Wages – Rounding. Defendant rounds Plaintiff and aggrieved employee
19 timecards in a manner that favors Defendant. Indeed, with Defendant's strict policies against
20 arriving to work late, as well as returning from meal periods late, Plaintiff and aggrieved
21 employees clock in before their start time and this consistently benefitted Defendant. However,
22 Plaintiff's wage statements consistently show hours rounded down.

23 22. California law will permit a "rounding policy only 'if the rounding policy is fair and
24 neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in
25 failure to compensate the employees properly for all the time they have actually worked.'" *(Troester v. Starbucks Corporation, (2018) 5 Cal. 5th 829, 846, citing See's Candy, 210*
26 *Cal.App.4th at p. 907.)* The policy utilized by Defendant is neither fair nor neutral, as it
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consistently shaved time from Plaintiff and aggrieved employees' hours worked, resulting in a failure to compensate Plaintiff and aggrieved employees for all hours worked.

23. Plaintiff and aggrieved employees have been employed under conditions prohibited by the wage order, and thus Defendant has also violated §§1198 and 1199. Defendant is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

24. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporates said paragraphs herein by reference.

25. Defendant was required to pay Plaintiff and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a).

26. Defendant failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

27. Due to these failures, Defendant is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*)

28. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporates said paragraphs herein by reference.

29. Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

30. Defendant failed to pay Plaintiff and aggrieved employees for all hours worked as a result of Defendant's practices described above. Based on Defendant's unlawful conduct described

1 herein, and because Plaintiff and the aggrieved employees were paid at or near minimum wage,
2 employer's failure to pay for all hours worked, including overtime, resulted in a payment of less
3 than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and
4 the Wage Orders. Defendant is liable for civil penalties pursuant to Labor Code §§558 and 2699
5 *et seq.*

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8 **Failure to Permit Compliant Meal Periods**

9 (Cal. Lab. Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order)

10 31. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
11 incorporates said paragraphs herein by reference.

12 32. Labor Code §512 provides, “[a]n employer may not employ an employee for a work
13 period of more than five hours per day without providing the employee with a meal period of not
14 less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee
15 to work during any meal... period mandated by an applicable order of the Industrial Welfare
16 Commission.” Paragraph 11 of the Wage Order provides, in pertinent part, “[u]nless an employee
17 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on
18 duty’ meal period and counted as time worked.”

19 33. Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of
20 “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code
21 §§226.7 and 512. Defendant failed to pay all penalty pay to Plaintiff or aggrieved employees for
22 noncompliant meal periods. As a derivative claim, Plaintiff alleges that pay statements were
23 inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor
24 Code §226(a). As a result of these violations, Defendant is liable for civil penalties pursuant to
25 Cal. Labor Code §558 and §2698 *et. seq.*

26 34. Plaintiff and aggrieved employees were alerted to when a meal period was to take place
27 by a bell system. However, employees still clocked in and out for meal periods and would get in
28 trouble if they clocked in late so they would line up by the time clock early while still on their

unpaid break to ensure they were back in time. This resulted in shortened meal breaks. Plaintiff and aggrieved employees also consistently missed second meal periods and sometime were unable to take first meal periods for shifts over 6 hours.

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 et seq., Wage Orders)

35. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporates said paragraphs herein by reference.

36. Defendant failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law.

37. Rest breaks were consistently under 10 minutes because employees were required to return back to their workstations within 10 minutes. However, the break facility was located a long distance from the Plaintiff's work areas, significantly cutting into employees' required 10 minute breaks.

38. The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(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 work day that the rest period is not provided"). Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. (*Id.* at 268) (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest

1 area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; *see also*, *Bufile v.*
2 *Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to
3 clearly communicate the authorization and permission [to take rest periods] to their employees.”).

4 39. Defendant did not authorize or permit all of its hourly employees to take at least a ten
5 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
6 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks
7 were missed Defendant failed to pay the 1-hour penalty, as required. Because Defendant violated
8 the Wage Order, Defendant is liable under Labor Code §1198. As a result of these violations,
9 Defendant is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. Seq.*

10 **Failure to Provide Proper Cool-Down Rest Periods**

11 (Cal. Labor Code §§226.7, 1198, 2698 *et seq.*)

12 40. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
13 incorporates said paragraphs herein by reference.

14 41. Labor Code section 226.7, subdivision (c) provides:

15 A. If an employer fails to provide an employee a... recovery period in
16 accordance with a state ., law, including, but not limited to an applicable statute
17 or applicable regulation, standard, or order of the Occupational Safety and
18 Health Standards Board, or the Division of Occupational Safety and Health, the
19 employer shall pay the employee one additional hour of pay at the employee's
20 regular rate of compensation for each workday that the meal or rest or recovery
21 period is not provided.

22 42. Defendant required Plaintiff and aggrieved employees to consistently work in in
23 temperatures far exceeding eighty (80) degrees Fahrenheit and did not provide adequate cool down
24 period opportunities.

25 43. Because the break room was a 3-4 minute walk from the work area and because there
26 was no seating provided in the work area by the Defendant, there was no opportunity to be able to
27 cool down. Plaintiff and aggrieved did not feel that it was acceptable to take a moment of rest if
28

1 they felt like they were going to pass out from the heat because of intimidation and pressure from
2 their Defendant.

3 44. Plaintiff and aggrieved employees were exposed to a high risk of suffering heat illness
4 so that their life, safety, and health were jeopardized by Defendant's conduct, violating California
5 Code of Regulation, Title, section 3395 and Labor Code sections 226.7 and 1198.

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9 **Failure to Provide Safe Working Conditions – Excessive Heat**

10 (Cal. Labor Code §§1198, Wage Order)

11 45. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
12 incorporates said paragraphs herein by reference.

13 46. Defendant's workplaces would get unsafely hot. Plaintiff and aggrieved employees
14 were forced to work in an incredibly hot warehouse that would get unsafely hot when the
15 temperatures outdoors soared. Plaintiff explains that if it was 90 degrees outside, it would be 100
16 degrees inside. Although Defendant sometimes provided fans, they were ineffective as they were
17 only circulating hot air.

18 47. Wage Order 1 ¶15 requires:

19 A. The temperature maintained in each work area shall provide
20 reasonable comfort consistent with industry-wide standards for the nature of the
21 process and the work performed.

22 B. If excessive heat or humidity is created by the work process, the
23 employer shall take all feasible means to reduce such excessive heat or humidity
24 to a degree providing reasonable comfort.

25 48. By violating the wage order, Defendant is liable for civil penalties pursuant to §2698
26 *et. Seq.*

1 **Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping**
2 **Requirements**

3 (Cal. Labor Code §§ 226, 1174, 2699 *et seq.*)

4 49. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
5 incorporates said paragraphs herein by reference.

6 50. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
7 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
8 and keep accurate records as required by §1174(d).

9 51. The statements provided to Plaintiff and aggrieved employees, and the records
10 maintained by Defendant, have not accurately reflected actual gross wages earned, including pay
11 for all hours worked and the accurate rate of pay for all hours worked, and overtime pay, sick pay
12 at the correct rate, and pay for meal and rest period premium wages.

13 52. §226 (a) requires:

14 A. An employer, semimonthly or at the time of each payment of wages,
15 shall furnish to his or her employee, either as a detachable part of the check,
16 draft, or voucher paying the employee's wages, or separately if wages are paid
17 by personal check or cash, an accurate itemized statement in writing showing
18 (1) gross wages earned, (2) total hours worked by the employee, except as
19 provided in subdivision (j), (3) the number of piece-rate units earned and any
20 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
21 deductions, provided that all deductions made on written orders of the employee
22 may be aggregated and shown as one item, (5) net wages earned, (6) the
23 inclusive dates of the period for which the employee is paid, (7) the name of the
24 employee and only the last four digits of his or her social security number or an
25 employee identification number other than a social security number, (8) the
26 name and address of the legal entity that is the employer and, if the employer is
27 a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
28 and address of the legal entity that secured the services of 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...

53. Such failures called injury to Plaintiff and others, by, among other things, impeding them from knowing the total hours worked, and the amount of wages to which they are and were entitled. Defendant knowingly and intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours worked.

54. Defendant is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

55. Finally, Defendant has violated Labor Code §432.5 for forcing Plaintiff and aggrieved employees to sign employment-related contracts and documents that contained unlawful terms of employment, including invalid meal period waivers resulting from a noncompliant meal period policy and/or practice.

FIRST CAUSE OF ACTION

Against Defendant for Violation of the Private Attorneys General Act (“PAGA”)

(California Labor Code §2698 *et seq.*)

56. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporates said paragraphs herein by reference.

57. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by Defendant during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other current and former aggrieved employees of Defendant, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

58. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

59. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code provisions:

- a. Failure to Pay For All Hours Worked, Including Overtime Hours Worked (Cal. Labor Code §§200, 204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 351, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, IWC Wage Orders);
- b. Failure to Pay All Wages Owed Twice Per Month (Cal. Lab. Code §§204, 210, and 2698 *et seq.*);
- c. Failure to Pay Minimum Wage (Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*);
- d. Failure to Permit Compliant Meal Periods (Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order);
- e. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Orders);
- f. Failure to Provide Proper Cool-down Rest Periods (Cal. Labor Code §§226.7, 1198, 2698 *et seq.*);
- g. Failure to Provide Safe Working Conditions – Excessive Heat (Cal. Labor Code §1198, Wage Order);
- h. Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements (Cal. Labor Code §§ 226, 1174, 2699 *et seq.*);

60. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §226(a).

61. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid.

62. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay

1 period, per aggrieved employee for subsequent violations for all Labor Code provisions for which
2 a civil penalty is not specifically provided.

3 63. Plaintiff and the other current and former employees of Defendant are aggrieved
4 employees. They were or are employed by Defendant, and each of them, and the violations alleged
5 herein were committed against them. Plaintiff brings this action on behalf of himself and all other
6 current and former aggrieved employees.

7 64. At the time of each violation, Defendant employed one or more employees.

8 65. As a result of the aforesaid wrongful and illegal conduct of Defendant, and each of
9 them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be
10 determined at trial, pre-judgment interest, costs and attorneys' fees.

11 66. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior
12 to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and
13 Workforce Development Agency ("LWDA") and served by certified mail upon Defendant,
14 Plaintiff through counsel notified the LWDA and Defendant of the specific Labor Code provisions
15 that Defendant has violated. The LWDA did not respond to Plaintiff's Notice within the statutory
16 timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code
17 §2699.3, Plaintiff may now pursue their PAGA claims in this action on behalf of aggrieved
18 employees and the State of California.

19 PRAYER FOR RELIEF

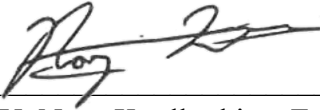
20 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for
21 judgement against Defendant as follows:

- 22 1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be
23 determined at trial, but at least the jurisdictional amount of this Court;
- 24 2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g)
25 and/or other applicable law;
- 26 3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable
27 law;
- 28

- 1 4. Pre-judgement and post-judgement interest as provided by law; and
2 5. Such other and further relief that the Court may deem just and proper.
3

4 DATED: February 13, 2025

KOUL LAW FIRM, APC

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8 BY: Nazo Koulloukian, Esq.
9 Attorneys for Plaintiff MANUEL MATA, and all
aggrieved employees
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EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

December 6, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Hussmann Corporation
12999 St. Charles Rock Road
Bridgeton, MO 63044

Hussmann Corporation
c/o CT Corporation System
330 N. Brand Blvd
Glendale, CA 91203

Re: PAGA Notice Pursuant to California Labor Code §2698 *et seq.*

Claimant: Manuel Mata
Employer: Hussmann Corporation

Dear Sir or Madam:

Manuel Mata (“Claimant”) has retained Nazo Koulloukian, Esq. of Koul Law Firm, APC, and Haines Law Group, APC, to represent Claimant, and all other aggrieved employees, for conditions of employment and wage and hour claims against former employer, Hussmann Corporation (hereafter “Employer”).

Employer is a manufacturer of display cases and refrigeration systems, and other food merchandising products. Claimant is a current employee of Employer, where he has worked for the past 8 years as a Material Handler at Employer’s Chino, California, facility.

Claimant alleges herein the specific provisions of California law that Employer has violated, requiring this Notice, including but not limited to: California Labor Code sections 201-203, 204, 208, 216, 221-223, 226, 226.2, 226.7, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

Employer violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Labor Code § 2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code § 2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Labor Code § 2699.3. Based on information and belief, Employer continues to commit all the violations alleged herein.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§200, 204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 222, 223, 351, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, IWC Wage Orders)

The Wage Orders define “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below. Employer has also failed to pay the required minimum wage for all hours worked, and failed to pay overtime, sick pay, premium wages, and vacation wages at the correct regular rate of pay.

Off-the-Clock Hours Worked

Employer requires its hourly employees to go through various levels of security including a metal detector and swinging-bar rotating gates, into the facility and then to the breakroom where Claimant and aggrieved employees were able to clock in. Claimant and aggrieved employees don safety apparel prior to entering the building, which is prior to clocking in.

There was always a lot of stress and pressure around clock-in times because employees would be in trouble if they clocked in one minute late. Employees were also required to go through various levels of security to enter and walk to the timeclock when returning from unpaid lunch periods if they chose to leave the building which further contributed to unpaid hours worked.

When employees earning minimum wage do not receive payment for all hours worked, including off-the-clock and overtime hours worked, the result is that they are earning less than the statutory minimum wages for all hours worked, in violation of Labor Code §1197.

Unpaid Wages – Rounding

Employer rounds Claimant and aggrieved employee timecards in a manner that favors Employer. Indeed, with Employer’s strict policies against arriving to work late, as well as returning from meal periods late, Claimant and aggrieved employees clock in before their start time and this consistently benefitted Employer. However, Claimant’s wage statements consistently show hours rounded down.

California law will permit a “rounding policy only ‘if the rounding policy is fair and neutral on its face and ‘it is used in such a manner that it will not result, over a period of time, in failure

to compensate the employees properly for all the time they have actually worked.” (*Troester v. Starbucks Corporation*, (2018) 5 Cal. 5th 829, 846, citing *See’s Candy*, 210 Cal.App.4th at p. 907.) The policy utilized by Employer is neither fair nor neutral, as it consistently shaved time from Claimant and aggrieved employees’ hours worked, resulting in a failure to compensate Claimant and aggrieved employees for all hours worked.

Underpaid Wages for Employees Subject to a CBA

Labor Code § 222 provides that “[i]t shall be unlawful, in case of any wage agreement arrived at through collective bargaining, either willfully or unlawfully or with intent to defraud an employee, a competitor, or any other person, to withhold from said employee any part of the wage agreed upon.”

Here, Claimant and aggrieved employees are subject to a collective bargaining agreement that sets forth the required rates of pay for all hours worked. However, Employer did not pay for all hours worked because of the off the clock time and rounding practices discussed above, in violation of Labor Code § 222.

Claimant and aggrieved employees have been employed under conditions prohibited by the wage order, and thus Employer has also violated §§1198 and 1199. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a).

Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Due to these failures, Employer is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer’s practices described above. Based on Employer’s unlawful conduct described

herein, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Orders. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Permit Compliant Meal Periods

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order)

Labor Code §512 provides, “[a]n 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...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission.” Paragraph 11 of the Wage Order provides, in pertinent part, “[u]nless an 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.”

Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employer failed to pay all penalty pay to Claimant or aggrieved employees for noncompliant meal periods. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §§558 and §2698 *et. seq.*

Employees were alerted to when a meal period was to take place by a bell system. However, employees still clocked in and out for meal periods and would get in trouble if they clocked in late so they would line up by the time clock early while still on their unpaid break to ensure they were back in time. This resulted in shortened meal breaks. Employees also consistently missed second meal periods and sometime were unable to take first meal periods for shifts over 6 hours.

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Orders)

Employer failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law.

Rest breaks were consistently under 10 minutes because employees were required to return back to their workstations within 10 minutes. However, the break facility was located a long distance from the Claimant's work areas, significantly cutting into employees' required 10 minute breaks.

The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's

regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(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 work day that the rest period is not provided”). Moreover, under California law rest periods must be a “net” ten minutes in a suitable rest area. (*Id.* at 268) (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; *see also*, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.”).

Employer did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks were missed Employer failed to pay the 1-hour penalty, as required. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Proper Cool-Down Rest Periods

(Cal. Labor Code §§ 226.7, 1198, 2698 *et seq*)

Labor Code section 226.7, subdivision (c) provides:

If an employer fails to provide an employee a... recovery period in accordance with a state ., law, including, but not limited to an applicable statute or applicable regulation, standard, or order of 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.

Employers required Claimant and aggrieved employees to consistently work in in temperatures far exceeding eighty (80) degrees Fahrenheit and did not provide adequate cool down period opportunities.

Because the break room was a 3-4 minute walk from the work area and because there was no seating provided in the work area by the Employer, there was no opportunity to be able to cool

down. Claimant and aggrieved did not feel that it was acceptable to take a moment of rest if they felt like they were going to pass out from the heat because of intimidation and pressure from their Employers.

Claimant and aggrieved employees were exposed to a high risk of suffering heat illness so that their life, safety, and health were jeopardized by Employer's conduct, violating California Code of Regulation, Title, section 3395 and Labor Code sections 226.7 and 1198.

Failure to Provide Safe Working Conditions – Excessive Heat
(Cal. Labor Code §1198, Wage Order)

Employer's workplaces would get unsafely hot. Claimant and aggrieved employees were forced to work in an incredibly hot warehouse that would get unsafely hot when the temperatures outdoors soared. Claimant explains that if it was 90 degrees outside, it would be 100 degrees inside. Although Employer sometimes provided fans, they were ineffective as they were only circulating hot air.

Wage Order 1 ¶15 requires:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

By violating the wage order, Employer is liable for civil penalties pursuant to §2698 *et seq.*

Failure to Provide Accurate Itemized Wage Statements
(Cal. Labor Code §§ 226, 1174, 2699 *et seq.*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d).

The statements provided to Claimants and aggrieved employees, and the records maintained by Employer, have not accurately reflected actual gross wages earned, including pay for all hours worked and the accurate rate of pay for all hours worked, and overtime pay, sick pay at the correct rate, and pay for meal and rest period premium wages.

§226 (a) requires:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages

earned, (2) total hours worked by the employee, except as provided in subdivision (j), (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 only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of 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...

Such failures called injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked, and the amount of wages to which they are and were entitled. Employer knowingly and intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours worked.

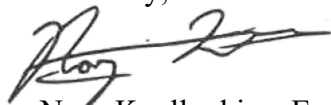
Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment-related contracts and documents that contained unlawful terms of employment, including invalid meal period waivers resulting from a noncompliant meal period policy and/or practice.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform Claimant if it does not intend to investigate these violations so that Claimant may pursue these claims as a representative action in civil court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a stylized flourish at the end.

Nazo Koulloukian, Esq.
Attorney for Claimant