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10 Attorneys for Plaintiff JUAN LARA, as an individual, and on behalf of all similarly situated  
11 employees,

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF SAN MATEO**

14 JUAN LARA as an individual, and on  
15 behalf of all similarly situated employees,

16 Plaintiff,

17 v.

18 PREMIRERE RELOCATIONS  
19 SERVICES INC dba CUMMINGS  
20 MOVING CO., and DOES 1 through 50,  
21 inclusive,

22 Defendants.

Case No. 19CIV02396

**CLASS ACTION**

**FIRST AMENDED COMPLAINT**

1. Failure to Pay All Wages Including Overtime Wages §§ 510, 1194, 1197;
2. Failure to Provide Meal Periods in Violation of Labor Code §§ 226.7, 512 and Wage Order 16-2001, § 11;
3. Failure to Provide Rest Periods in Violation of Labor Code §§ 226.7 and Wage Order 16-2001, § 12;
4. Failure to Provide Accurate Itemized Wage Statements in Violation of Labor Code §§ 226, 226.3;
5. Failure to Pay Wages Upon Termination of Employment in Violation of Labor Code §§ 201, 202, and 203;
6. Failure to Reimburse for Necessary Business Expenditures; Labor Code § 2802; and
7. Unfair Business Practices in Violation of Cal. Bus. & Prof Code §§ 17200, *et seq.*
8. Violation of Private Attorney General Act (Lab. Code, §§ 2698 *et. seq.*, and 2699 *et. seq.*).

**DEMAND FOR JURY TRIAL**

1 Plaintiff JUAN LARA (“Plaintiff” or “Mr. Lara”), on behalf of himself and all  
2 employees similarly situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. This is an action brought on behalf of Plaintiff and all similarly-situated  
5 employees who were subjected to one or more of the violations alleged herein (“Putative  
6 Class”) by Defendant PREMIERE RELOCATIONS SERVICES INC., doing business as  
7 CUMMINGS MOVING CO. (hereinafter referred to as “Defendant”). The term “RELEVANT  
8 TIME PERIOD” or “TIME PERIOD” is defined as four (4) years prior to the filing of the  
9 Complaint. Plaintiff reserves the right to amend this Complaint to reflect a different “Time  
10 Period” as further discovery is conducted.

11 2. Plaintiff, individually and on behalf of the Putative Class, seeks relief against  
12 Defendant for its: (1) failure to pay all wages due including regular and overtime wages and  
13 minimum wages; (2) failure to provide meal periods or premium compensation in lieu thereof;  
14 (3) failure to provide rest periods or premium compensation in lieu thereof; (4) failure to  
15 provide accurate itemized wage statements; (5) failure to pay wages due upon termination of  
16 employment; (6) failure to indemnify for expenditures or losses in discharge of duties; (7)  
17 unfair business practices under Bus. Prof. Code section 17200, et seq., and (8) California  
18 Private Attorneys General Act (“PAGA”), Labor Code §§2698-2699, et seq.

19 3. At all relevant times herein, Defendant has consistently maintained and enforced  
20 the following unlawful policies and practices against Plaintiff and the Putative Class:

- 21 (a) Willfully refusing to pay all hours worked, including both regular, overtime,  
22 and minimum wages;
- 23 (b) Willfully refusing to permit off-duty meal periods or providing  
24 compensation in lieu thereof;
- 25 (c) Willfully refusing to permit rest periods or providing compensation in lieu  
26 thereof;
- 27 (d) Willfully refusing to furnish accurate itemized wage statements upon  
28 payment of wages;

- 1 (e) Willfully refusing to pay all wages due upon separation of employment;  
2 (f) Willfully refusing to pay for expenditures or losses in the discharge of their  
3 duties; and  
4 (g) Willfully engaging in unfair business practices.

5 **JURISDICTION AND VENUE**

6 4. This Court is an appropriate venue for this action under Code of Civil Procedure  
7 sections 395 and 395.5, because the acts that give rise to the causes of action alleged herein  
8 occurred in the County of San Mateo, State of California. Plaintiff hereby designates the  
9 County of San Mateo, State of California as the place of proper venue.

10 5. Defendant is a California corporation believed to be doing business in good  
11 standing within the State of California and is located at 275 S. Maple Avenue S. San Francisco,  
12 California 94080. This court has personal jurisdiction over Defendant, because Defendant  
13 resides in, is incorporated in, has its main place of business in, and/or conducts business in the  
14 State of California, and a substantial portion of the acts, omissions, events, and transactions  
15 constituting the causes of action alleged herein occurred within the State of California, and  
16 more specifically, in the County of San Mateo. Further, by doing business in the state of  
17 California, Defendant has purposefully availed itself of the state's jurisdiction. Accordingly,  
18 as personal jurisdiction over Defendants would be constitutional, California's long-arm statute  
19 provides that California courts may exercise personal jurisdiction over Defendants. (Code Civ.  
20 Pro. section 410.10.)

21 6. This Court has subject matter jurisdiction over the causes of action alleged in  
22 this complaint because the Court is a court of general subject matter jurisdiction and is not  
23 otherwise excluded from exercising subject matter jurisdiction over said causes of action. The  
24 penalties recoverable for Plaintiff do not exceed seventy-five thousand dollars (\$75,000.00),  
25 and collectively amongst all aggrieved employees do not exceed five million dollars  
26 (\$5,000,000.00).

27 7. There is no federal question at issue, as the issue herein are based solely on  
28 California statutes and law, including the California Labor Code, Industrial Welfare

1 Commission (“IWC”) Wage Orders, California Code of Civil Procedure, California Business  
2 and Professions Code and Rules of Court.

3 **THE PARTIES**

4 **A. The Plaintiff**

5 8. Plaintiff, at all relevant times herein, was an employee of Defendant from on or  
6 about 2009 until May 2018, as a delivery driver. Plaintiff’s duties included ensuring timely  
7 deliveries of goods to predetermined customers on specific routes at various locations  
8 throughout California, loading and unloading trucks of property, assist in putting away property  
9 in storage units. Defendants controlled Plaintiff’s schedule, trained Plaintiff, and directed him  
10 where his duties would be performed each day.

11 9. Plaintiff is entitled to compensation for all hours worked, overtime  
12 compensation, premium pay, reporting time pay, business expense reimbursements, and  
13 penalties from Defendant. Plaintiff worked for Defendant for at least four (4) years prior to the  
14 commencement of this action, working at various job sites throughout California assigned to  
15 him by Defendant.

16 **B. The Defendants**

17 10. Plaintiff is informed and believes, and based thereon alleges, that PREMIERE  
18 RELOCATIONS SERVICES INC. doing business as CUMMING MOVING CO. is a  
19 California corporation, in good standing and doing business in the state of California, and is  
20 and/or was the employer of the Plaintiff and similarly aggrieved employees during the Relevant  
21 Time Period. Defendant’s principle place of business is located in California, specifically in  
22 San Mateo county. Defendant is a residential and small business moving and storage  
23 throughout California.

24 11. Plaintiff is ignorant of the true names, capacities, relationships and extent of  
25 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,  
26 inclusive, but on information and belief alleges that said Defendants are legally responsible for  
27 the violations alleged herein. Plaintiff will amend this complaint to allege the true names and  
28 capacities of the DOE Defendant when ascertained.

1           12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant  
2 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a  
3 joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each  
4 Defendant are legally attributable to the other Defendants. Furthermore, Defendants operate as  
5 a joint venture and/or single business enterprise, integrated enterprise and/or are agents of one  
6 another, are alter egos, joint employers and conspire with one another to increase profits by  
7 engaging in the conduct described in this complaint.

8           13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant  
9 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,  
10 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned  
11 below was acting, at least in part, within the course and scope of that authority as such agent,  
12 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with  
13 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant  
14 are legally attributable to the other Defendants.

15   **PAGA ADMINISTRATIVE PREREQUISITE**

16           14. Prior to filing this complaint, on April 30, 2019, Plaintiff gave written notice by  
17 certified mail to the Labor and Workforce Development Agency (“LWDA”) and to Defendants  
18 of the specified provisions alleged to have been violated, including the facts and theories to  
19 support the alleged violations as required by Labor Code section 2699.3. A true and correct copy  
20 of Plaintiff’s letter sent to the LWDA, dated April 30, 2019, is attached hereto as Exhibit A.

21           15. Under Labor Code section 2699.3, subdivision (a), Plaintiff may bring a cause  
22 of action under PAGA only after giving notice to the Labor Workforce Development Agency  
23 (“LWDA”) and the employer of the Labor Code sections alleged to have been violated, and  
24 after receiving notice from the LWDA of its intention not to investigate, or after sixty-five (65)  
25 days have passed without notice.

26           16. Sixty-five (65) days have passed from the date of submission of the letter to the  
27 LWDA and the LWDA has not responded. Therefore, Plaintiff seeks as a matter of right to  
28 amend his complaint to add the PAGA cause of action pursuant to Labor Code section 2699.3,

1 subdivision (a)(2)(C). As the date of submission of the notice letter to the LWDA, the PAGA  
2 claims of the Plaintiff and the aggrieved employees has been tolled.

3 **GENERAL ALLEGATIONS**

4 17. Labor Code section 1194 provides that notwithstanding any agreement to work for  
5 a lesser wage, an employee receiving less than the legal overtime compensation is entitled to  
6 recover in a civil action the unpaid balance of their overtime compensation, including interest  
7 thereon, reasonable attorneys' fees, and costs of suit.

8 18. Further, Business and Professions Code section 17203 provides that any person  
9 who engages in unfair competition may be enjoined in any court of competent jurisdiction.

10 19. Business and Professions Code section 17204 provides that any person who has  
11 suffered actual injury and has lost money or property as a result of the unfair competition may  
12 bring an action in a court of competent jurisdiction.

13 20. During all, or a portion of the Class Period, Plaintiff and each member of the  
14 Plaintiff Class was employed by Defendants and each of them, in the State of California. Plaintiff  
15 and each of the Plaintiff Class members were non-exempt employees covered under one or more  
16 Industrial Welfare Commission (IWC) Wage Orders, and labor code section 510, and/or other  
17 applicable wage orders, regulations and statutes, and each Plaintiff Class member was not subject  
18 to an exemption for executive, administrative and professional employees, which imposed  
19 obligations on the part of the Defendant to pay Plaintiff and Plaintiff Class lawful overtime  
20 compensation. Plaintiff and Plaintiff Class were covered by one or more Industrial Welfare  
21 Commission (IWC) Wage Orders, and labor code section 226.7 and other applicable wage orders,  
22 regulations and statutes which imposed an obligation on the part of the Defendant to pay Plaintiff  
23 and Plaintiff Class rest and meal period compensation.

24 21. During the Class Period, Defendant was obligated to pay Plaintiff and Plaintiff  
25 Class for all hours worked.

26 22. During the Class Period, Defendant was obligated to pay Plaintiff and Plaintiff  
27 Class minimum wages and overtime compensation for all hours worked over eight (8) hours of  
28 work in one (1) day or forty (40) hours in one (1) week, and double-time for hours worked in

1 excess of twelve (12) in one day.

2 23. During the Class Period, Defendant was obligated to provide Plaintiff and Plaintiff  
3 Class with a work free meal and/or rest period(s).

4 24. Plaintiff and each Plaintiff Class member primarily performed non-exempt work  
5 in excess of the maximum regular rate hours set by the IWC in the applicable Wage Orders,  
6 regulations or statutes, and therefore entitled Plaintiff and Plaintiff Class members to overtime  
7 compensation at time and a half rate, and when applicable, double time rates as set forth by the  
8 applicable Wage Orders, regulations, and/or statutes.

9 25. Class Members who ended their employment during the Class Period, but were  
10 not paid the above due compensation for all hours worked, overtime compensation timely upon  
11 the termination of their employment as required by labor code sections 201, 202, and 203, and is  
12 entitled to penalties as provided by labor code section 203.

13 26. During the Class Period, the Defendant required Plaintiff and Plaintiff Class to  
14 perform work over eight (8) hours in a day without being paid lawful overtime compensation by  
15 failing to include among other things, shift differential pay in the regular rate for purpose of  
16 calculating their overtime rate, in violation of the various applicable Wage Orders, regulations  
17 and statutes, and the Defendant: (1) willfully failed and refused, and continue to fail and refuse  
18 to pay compensation for all hours worked, including minimum wage and lawful overtime  
19 compensation to the Plaintiff Class, and (2) willfully failed and refused, and continue to fail and  
20 refuse to pay due and owing wages promptly upon termination of employment to Plaintiff and  
21 Plaintiff Class Members.

22 27. During the Class Period, Defendant was obligated to pay Plaintiff and Plaintiff  
23 Class for all hours worked, however Defendant had a policy and practice of not paying Plaintiff  
24 and Plaintiff Class for all hours worked by requiring its employees to work off-the-clock either  
25 before or after their scheduled shifts. Throughout Plaintiff's employment, Defendant required  
26 Plaintiff and Plaintiff Class to arrive at the facility at approximately 6:30 a.m., however, Plaintiff  
27 and Plaintiff Class were not paid for this time. Defendant had a uniform policy and practice of  
28 clocking-in its non-exempt employee in at 7:00 a.m. Due to Defendant's practice of having

1 Plaintiff and Plaintiff Class arrive prior to their start time, Plaintiff and Plaintiff Class would not  
2 get paid for the time they were at the facility from approximately 6:30 a.m. to 7:00 a.m.  
3 Additionally, Plaintiff and Plaintiff Class were not permitted to clock themselves in or out.  
4 Defendant had a uniform practice of clocking everyone in at 7:00 a.m. and clocking everyone out  
5 at the end of the day.

6 28. During the Class Period, Defendant failed and/or refused to schedule Plaintiff and  
7 Plaintiff Class in an overlapping manner so as to reasonably provide meal and/or rest breaks  
8 and/or shift relief for Plaintiff and Plaintiff Class, thereby causing members of the Plaintiff Class  
9 to work without being given paid ten (10) minute rest periods for every four (4) hours or major  
10 fraction thereof worked and without being given a thirty (30) minute meal period for shifts of at  
11 least five (5) hours and second thirty (30) minute meal periods for shifts of at least ten (10) hours  
12 during which Plaintiff Class were relieved of all duties and free to leave the premises.

13 29. Defendant further failed and/or refused to schedule Plaintiff and Plaintiff Class in  
14 an overlapping manner so as to reasonably ensure meal and/or rest breaks were taken within the  
15 required statutory time frame as required by law. Furthermore, Defendant failed and/or refused  
16 to pay any Plaintiff Class one (1) hour's pay at the employees' regular rate of pay as premium  
17 compensation for failure to provide rest and/or meal periods or to providing such rest and/or meal  
18 periods within the statutory time frame as a result of their scheduling policy.

19 30. As such, during the Class Period, Defendant required Plaintiff and Plaintiff Class  
20 to work regular hours, off the clock hours, and overtime hours without lawful compensation in  
21 violation of the applicable IWC Wage Order(s), regulations and statutes, and Defendant willfully  
22 failed and refused, and continues to fail and refuse to pay due and owing wages promptly upon  
23 termination of employment to Plaintiff and Plaintiff Class.

24 31. Additionally, Defendant had a corporate practice of requiring Plaintiff and  
25 Plaintiff Class to shoulder the burden of Defendant's cost of doing business by failing to  
26 reimburse Plaintiff and Plaintiff Class for necessary business expenditures. Specifically,  
27 Defendants controlled the appearance of Plaintiff and Plaintiff Class, by requiring them to wear  
28 company uniforms marked with the Defendant's company logos. Further, throughout the Class



1 Period, Plaintiff and Plaintiff Class, were obligated to bear all costs and expenses associated with  
2 the upkeep of their uniforms. Thus, the Defendants' policy of requiring Plaintiff and Plaintiff  
3 Class to wear company uniforms with company logos, without providing maintenance or  
4 reimbursement to Plaintiff or Plaintiff Class for having to shoulder the costs associated for said  
5 expenditure constitutes a violation of California Labor Code section 2802.

6 **CLASS ALLEGATIONS**

7 32. Plaintiff brings this action on behalf of himself and all other similarly situated  
8 persons, as a class action pursuant to California Civil Code of Procedure section 382 on behalf of  
9 themselves and all other similarly situated persons in the Class, which is composed of and defined  
10 as follows:

- 11 1. All persons who are employed or have been employed by Defendant in the State  
12 of California who, within the four (4) years of the filing of this complaint, have worked  
13 as non-exempt employees and were not paid all lawful wages as regular time, overtime,  
14 and double-regular time.
- 15 2. All persons who are employed or have been employed by Defendant in the State  
16 of California who, for the four (4) years prior to the filing of this class action to the  
17 present have worked as non-exempt employees and have not been provided an off-duty  
18 meal periods or one hour's pay in lieu thereof, in violation of Labor Code sections  
19 226.7 and 512;
- 20 3. All persons who are employed or have been employed by Defendant in the State  
21 of California who, for the four (4) years prior to the filing of this class action to the  
22 present have worked as non-exempt employees and have not been provided a rest  
23 period for every four hours or major fraction thereof worked per day, off-duty meal  
24 periods or one hour's pay in lieu thereof, in violation of California Labor Code  
25 sections 226.7 and 512;
- 26 4. All persons who employed or have been employed by Defendant in the State of  
27 California who, for the three (3) years prior to the filing of this class action to the  
28 present and worked as non-exempt employees and have been terminated or resigned,

1 that have not been paid wages pursuant to Labor Code section 203 and are owed  
2 restitution for waiting time penalties for unpaid wages;

3 5. All persons who are employed or have been employed by Defendant in the State of  
4 California who, for the four (4) years prior to the filing of this class action to the  
5 present have worked as non-exempt employees and were not paid all wages owed,  
6 including but not limited to overtime;

7 6. All persons who are employed or have been employed by Defendant in the State of  
8 California who, for the four (4) years prior to the filing of this class action to the  
9 present have worked as non-exempt employees and were not provided an accurate  
10 payroll record as required under Labor Code sections 226 and 1174;

11 7. All persons who are employed or have been employed by Defendant in the State of  
12 California who, for the four (4) years prior to the filing of this class action to the  
13 present have worked as non-exempt employees who have not been reimbursed for  
14 necessary business expenditures incurred as a result of performing their job duties;  
15 and

16 8. All persons who are employed or have been employed by Defendant in the State of  
17 California who, for the four (4) years prior to the filing of this class action to the  
18 present have worked as non-exempt employees who have been subjected to unlawful  
19 and unfair business practices within the meaning of Unfair Competition Law and who  
20 suffered injury, including lost money, as a result of Defendant's unlawful and unfair  
21 business practices.

22 33. Plaintiff reserves the right under rule 1855, subsection (b) of the California Rules  
23 of Court, to amend or modify the Class description with greater specificity or further division into  
24 subclasses or limitation to particular issues.

25 34. This action has been brought and may be maintained as a class action pursuant to  
26 Code of Civil Procedure section 382, because there is a well-defined common interest of many  
27 persons and it is impractical to bring them all before the court.

28 35. This Court should permit this action to be maintained as a class action pursuant to

1 Code of Civil Procedure section 382 because:

- 2 (a) The questions of law and fact common to the Class predominate over any question  
3 affecting only individual members;
- 4 (b) A class action is superior to any other available method for the fair and efficient  
5 adjudication of the claims of the members of the Class;
- 6 (c) The Class is so numerous that it is impractical to bring all member of the Class before  
7 the Court;
- 8 (d) Plaintiff and the other members of the Class will not be able to obtain effective and  
9 economic legal redress unless the action is maintained as a class action;
- 10 (e) Plaintiff and the other members of the Class will not be able to obtain effective and  
11 economic legal redress unless the action is maintained as a class action;
- 12 (f) There is a community of interest in obtaining appropriate legal and equitable relief for  
13 the common law and statutory violations and other improprieties and in obtaining  
14 adequate compensation for the damages and injuries which Defendant's actions have  
15 inflicted upon the Class;
- 16 (g) There is a community of interest in ensuring that the combined assets and available  
17 insurance of the Defendant is sufficient to adequately compensate members of the  
18 Class for the injuries sustained;
- 19 (h) Without class certification, the prosecution of separate actions by individual members  
20 of the Class would create a risk of:
- 21 (1) Inconsistent or varying adjudications with respect to individual members of the  
22 Class which would establish incompatible standard of conduct for the  
23 Defendant; and/or
- 24 (2) Adjudications with respect to the individual members which would, as a  
25 practical matter, be dispositive of the interests of other members not parties to  
26 the adjudications, or would substantially impair or impede their ability to  
27 protect their interests, including, but not limited to, the potential for exhausting  
28 the funds available from those parties who is, or may be, responsible Defendant;

1 and

2 (3) Defendant has acted or refused to act on grounds generally applicable to the  
3 Class, thereby making final injunctive relief appropriate with respect to the  
4 Class as a whole.

5 **FIRST CAUSE OF ACTION**

6 **FAILURE TO PAY ALL WAGES INCLUDING OVERTIME**

7 **(Lab. Code, §§ 510, 1194, 1197)**

8 **(Plaintiff and the Class Against Defendant)**

9 36. Plaintiff realleges and incorporates by references the preceding paragraphs of this  
10 complaint as if fully set forth herein.

11 37. Plaintiff, and the Plaintiff Class seek relief against Defendant for its failure to pay  
12 all wages due in violation of the Labor Code and applicable IWC wage orders.

13 38. Plaintiff and Plaintiff Class seek relief against Defendant for the failure to pay all  
14 wages due in violation of Labor Code sections 510, 1194, and applicable IWC wage orders.

15 39. Labor Code section 510 provides that any work in excess of eight (8) hours in one  
16 (1) workday and any work in excess of forty (40) hours in any one (1) workweek shall be  
17 compensated at the rate of no less than one and one-half times the regular rate of pay for an  
18 employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the  
19 rate of no less than twice the regular rate of pay for an employee.

20 40. Labor Code section 1194 provides that notwithstanding any agreement to work for  
21 a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime  
22 compensation is entitled to recover in a civil action the unpaid balance of their minimum wage or  
23 overtime compensation, including interest, reasonable attorney's fees and costs of suit.

24 41. Pursuant to IWC Wage Order 16, section 2(J), "hours worked" includes the time  
25 during which an employee is subject to the control of the employer, and includes all time the  
26 employee is suffered or permitted to work, whether or not required to do so.

27 42. Labor Code section 1182.12 provides, "notwithstanding any other provision of this  
28 part, on or after October 1, 2014 to February 28, 2015, the minimum wage for all industries shall

1 not be less than nine dollars (\$9.00). On or after March 1, 2015, the minimum wage in California  
2 increased to ten dollars (\$10.00) per hour. On or after, January 1, 2016, the minimum wage for  
3 all industries shall not be less than ten dollars (\$10.00) per hour.” The minimum wage from  
4 January 1, 2017 to December 31, 2017 shall not be less than ten dollars and fifty cents (\$10.50)  
5 per hour. From January 1, 2018 to December 31, 2018, the minimum wage in California shall not  
6 be less than eleven dollars (\$11.00).

7 43. Defendant willfully violated the Labor Code and applicable IWC wage orders by  
8 failing to pay Plaintiff all wages including overtime wages for all time worked.

9 44. Plaintiff and Plaintiff Class regularly worked over eight (8) hours per day and forty  
10 (40) hours per week. Defendant failed to pay Plaintiff overtime premium and/or double-time  
11 premium for hours worked in excess of eight (8) hours per day and forty (40) hours per week for  
12 work performed for the Defendant. Defendant failed to schedule Plaintiff and other employees in  
13 such a manner that allowed Plaintiff to be relieved of his shift immediately, thereby causing him  
14 to work in excess of eight (8) hours per day and/or forty (40) hours per week.

15 45. Further, Defendant willfully violated the Labor Code by failing to pay Plaintiff  
16 and Plaintiff Class all wages. Specifically, Plaintiff and Plaintiff Class were denied wages as a  
17 result of Defendant’s policy and practice of failing to make lawful meal and/or rest periods  
18 available to Plaintiff and Plaintiff Class.

19 46. Plaintiff and Plaintiff Class, by virtue of their employment with Defendant and the  
20 Defendant’s policy requiring employees to work through their meal and rest periods which  
21 resulted in its failure to pay all minimum wages, and because of the Defendant’s policy requiring  
22 employees to work off-the-clock either before or after their shifts which resulted in its failure to  
23 pay all overtime wages, is a violation of the Labor Code and applicable Wage orders related to  
24 the payment of minimum wages including overtime.

25 47. Additionally, Plaintiff and Plaintiff Class are entitled to attorney’s fees and costs,  
26 pursuant to Labor Code sections 218.5, 1194 and prejudgment interest pursuant to Labor Code,  
27 section 218.6 and Code of Civil Procedure section 3287.

28 ///

1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS IN VIOLATION OF LABOR CODE**

3 **(Lab. Code, §§ 226.7, 512 and Wage Order 16-2001, § 11)**

4 **(Plaintiff and the Class Against Defendant)**

5 48. Plaintiff realleges and incorporates by reference the preceding paragraphs of this  
6 complaint as if fully set forth herein.

7 49. Labor Code section 512 provides that “an employer may not employ an employee  
8 for a work period of more than five (5) hours per day without providing the employee with a meal  
9 period of not less than thirty (30) minutes, except that if the total work period per day of the  
10 employee is no more than six (6) hours, the meal period may be waived by mutual consent of  
11 both the employer and employee.”

12 50. Labor Code section 512 further provides that “an employer may not employ an  
13 employee for a work period of more than ten (10) hours per day without providing the employee  
14 with a second (2<sup>nd</sup>) meal period of not less than thirty (30) minutes, except that if the total hours  
15 worked is no more than twelve (12) hours, the second meal period may be waived by mutual  
16 consent of the employer and the employee only if the first (1<sup>st</sup>) meal period was not waived.”

17 51. Labor Code section 226.7, subdivision (b), provides that an employer shall not  
18 require an employee to work during a meal or rest period mandated pursuant to an applicable  
19 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission.

20 52. Labor Code section 226.7, subdivision (c), provides that if an employer fails to  
21 provide an employee a meal period in accordance with this section, the employer shall pay the  
22 employee one (1) additional hour of pay at the employee’s regular rate of compensation for each  
23 workday that the meal period is not provided in accordance with this section.

24 53. Plaintiff and the Class consistently worked over five (5) hours per shift and  
25 therefore were entitled to a meal period of not less than thirty (30) minutes prior to exceeding five  
26 (5) hours of employment.

27 54. Defendant failed to provide Plaintiff and the Class with work-free, uninterrupted  
28 meal periods within the first five (5) hours of their work shift. Defendant failed to schedule

1 Plaintiff and other employees in a manner so as to reasonably provide timely meal and/or work  
2 free meal period as required by Labor Code sections 226.7 and 512. As a result, Plaintiff and  
3 Plaintiff Class were repeatedly forced to forgo meal periods, work during his meal periods and/or  
4 take meal periods after the fifth (5th) hour of their shift, but Defendant did not have a policy in  
5 place that allowed Plaintiff to report missed or interrupted meal periods causing these incidents  
6 to go undocumented. In so doing, Defendant failed to comply with the meal period requirements  
7 established by Labor Code, sections 226.7, 512, and other regulations and statutes.

8 55. Defendant further failed to implement a policy to pay Plaintiff and Plaintiff Class  
9 an additional hour of pay at their regular rate of pay for meal periods not provided. As such,  
10 Plaintiff and Plaintiff Class were repeatedly forced to forgo their meal periods, work during their  
11 meal periods and/or take meal periods after the fifth (5th) hour without compensation and is thus  
12 entitled to damages in an amount equal to one (1) additional hour of wages per missed meal  
13 period, in a sum to be proven at trial.

14 56. In addition to meal period compensation, Plaintiff requests that the Court award  
15 any statutory penalties against Defendant and costs incurred by him in this action in a sum  
16 provided by Labor Code sections 218.5 and 1194, Code of Civil Procedure section 1021.5, and  
17 any other applicable statute.

18 **THIRD CAUSE OF ACTION**

19 **FAILURE TO PROVIDE REST PERIODS**

20 **(Lab. Code, §§ 226.7 and Wage Order 16-2001, § 12)**

21 **(Plaintiff and the Class Against Defendant)**

22 57. Plaintiff realleges and incorporates by references the preceding paragraphs of this  
23 complaint as if fully set forth herein.

24 58. Wage Order 16-2001 section 11 and Labor Code section 226.7 provide that  
25 employers must authorize and permit all employees to take rest periods at the rate of ten (10)  
26 minutes rest time per four (4) work hours or any major fraction thereof.

27 59. Labor Code section 226.7, subdivision (b), provides that an employer shall not  
28 require an employee to work during a meal or rest period mandated pursuant to an applicable

1 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission.

2 60. Labor Code section 226.7, subdivision (c), further provides that if an employer  
3 fails to provide an employee rest periods in accordance with this section, the employer shall pay  
4 the employee one (1) hour of pay at the employees' regular rate of compensation for each workday  
5 that the rest period is not provided.

6 61. Plaintiff and Plaintiff Class consistently worked over four (4) hours per shift and  
7 therefore was entitled to a rest period of not less than ten (10) minutes prior to exceeding four (4)  
8 hours of employment.

9 62. Defendant failed and/or refused to implement a relief system by which Plaintiff  
10 and Plaintiff Class could receive rest breaks and/or work free rest breaks. Defendant failed to  
11 schedule Plaintiff and Plaintiff Class in a manner so as to reasonably provide timely rest and/or  
12 work free rest period as required by Labor Code sections 226.7 and 512. As such, Plaintiff and  
13 Plaintiff Class did not receive their rest break(s) on most, if not all days worked, but Defendant  
14 did not have a policy in place that allowed Plaintiff to report missed or interrupted rest periods  
15 causing these incidents to go undocumented. By and through their actions, Defendant  
16 intentionally and improperly denied rest periods to Plaintiff and Plaintiff Class in violation of  
17 Labor Code sections 226.7 and 512.

18 63. Defendant further failed to implement a policy to pay Plaintiff and Plaintiff Class  
19 an additional hour of pay at their regular rate of pay for rest periods not authorized or permitted.  
20 As such, Plaintiff and Plaintiff Class are entitled to damages in an amount equal to one (1) hour  
21 of wages per missed rest period, in a sum to be proven at trial.

22 64. In addition to rest period compensation, Plaintiff and Plaintiff Class requests that  
23 the Court award any statutory penalties against Defendant and costs incurred by him in this action  
24 in a sum provided by Labor Code sections 218.5 and 1194, and Code of Civil Procedure and any  
25 other applicable statute.

26 ///

27 ///

28 ///



1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **(Lab. Code, §§ 226, 226.3, and 1174)**

4 **(Plaintiff Against Defendant)**

5 65. Plaintiff realleges and incorporates by reference all preceding paragraphs of this  
6 complaint as if fully set forth herein.

7 66. Labor Code sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage Order  
8 provides that employers must keep records and provide employees with itemized wage statements  
9 showing total hours worked and each applicable rate of pay in effect during the pay period with  
10 the corresponding number of hours worked at each hourly rate.

11 67. Labor Code section 226, subdivision (a), requires an employer provide employees—  
12 either as a detachable part of the check, draft, or voucher paying the employee’s wages, or  
13 separately when wages are paid by personal check or cash—an accurate itemized wage statement  
14 in writing showing: “(1) gross wages earned, (2) total hours worked by the employee, (4) all  
15 deductions, (5) net wages, (6) the inclusive dates of the period for which the employee is paid,  
16 (7) the name of the employee and only the last four digits of his or her social security number or  
17 an employee identification number other than a social security number, (8) the name and address  
18 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay  
19 period and corresponding number of hours worked at each hourly rate by the employee”

20 68. Labor Code section 226.2, subdivision (a)(2), requires the itemized statements  
21 required by subdivision (a) of section 226 shall, in addition to the other items specified in that  
22 subdivision, state the following: total hours of compensable rest and recovery periods, the rate of  
23 compensation, and the gross wages paid for those periods during the pay period.

24 69. Moreover, IWC Wage Order No.9-2001, paragraph 7(A) requires that every  
25 employer shall keep accurate information with respect to each employee, including time records  
26 showing when each employee begins and ends each work periods, the total daily hours worked  
27 by each employee and the total hours worked in each payroll period, and applicable rates of pay.  
28 IWC Wage Order No.9-2201, paragraph 7(B) provides that “Every employer shall semimonthly

1 or at the time of each payment of wages furnish each employee, either as a detachable part of the  
2 check, draft, or voucher paying the employee's wages, or separately, an itemized statement in  
3 writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee  
4 is paid; (3) the name of the employee or the employee's social security number; and (4) the name  
5 of the employer, provided all deductions made on written orders of the employee may be  
6 aggregated and shown as one item."

7 70. Plaintiff and Plaintiff Class are informed and believe that throughout the course of  
8 their employment Defendant willfully and intentionally failed to make, keep and/or provide  
9 Plaintiff with records which accurately reflect the hours worked by Plaintiff and Plaintiff Class.  
10 Specifically, Plaintiff and Plaintiff Class believe that Defendant's records do not accurately reflect  
11 the start and stop times of their shifts and/or meal periods, do not accurately reflect where they  
12 worked during their meal and/or rest breaks. Furthermore, Defendant's records do not reflect all  
13 hours worked as well as the proper rate of pay for all hours over eight (8) in a day or forty (40) in  
14 a week.

15 71. Plaintiff and Plaintiff Class were injured by Defendant's failure to comply with  
16 subsection (7) of Labor Code 226, subdivision (a) making it mandatory that only the last four  
17 digits of the employee's social security number or an employee identification number other than  
18 a social security number appear on an employee's itemized statement. Furthermore, Plaintiff and  
19 Plaintiff Class were injured by Defendant's failure to comply with Labor Code section 1174,  
20 subdivision (d) and section 226, subdivision (a), by not reflecting all hours worked, specifically  
21 the hours Plaintiff and Plaintiff Class were required to work off the clock and for all hours spent  
22 attending weekly meetings.

23 72. Labor Code section 226, subdivision (e), provides that if an employer knowingly  
24 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,  
25 the total hours worked by the employee and the applicable hourly overtime rates, causing the  
26 employee injury, then the employee is entitled to recover the greater of all actual damages or fifty  
27 dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each subsequent  
28 violation, up to four thousand dollars (\$4,000.00). Plaintiff and Plaintiff Class are informed and

1 believe that Defendant willfully failed to make or keep accurate records for them.

2 73. Plaintiff and Plaintiff Class are informed and believe that Defendant's failure to  
3 keep accurate payroll records, as described above, violates Labor Code sections 1174, subdivision  
4 (d) and section 226, subdivision (a), and the applicable IWC Wage Order.

5 74. As a result, Defendant is liable to Plaintiff and Plaintiff Class for penalties in an  
6 amount provided by Labor Code section 226, subdivision (e) and reasonable attorneys' fees and  
7 costs.

8 **FIFTH CAUSE OF ACTION**

9 **FAILURE TO PAY WAGES UPON TERMINATION OF EMPLOYMENT**

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

11 **(Plaintiff Against Defendant)**

12 75. Plaintiff and Plaintiff Class reallege and incorporates by references the preceding  
13 paragraphs of this complaint as if fully set forth herein.

14 76. Labor Code section 201 and 202 require Defendant to pay its employees all wages,  
15 including both minimum wages and overtime wages, due within seventy-two (72) hours of  
16 termination of employment. Labor Code section 203, subdivision (a), provides that if an employer  
17 willfully fails to timely pay such wages the employer, must, as a penalty, continue to pay the  
18 subject employees' wages until the back wages are paid in full or an action is commenced, but  
19 the penalty shall not exceed thirty (30) days of wages.

20 77. During the relevant Class Period, Plaintiff and Plaintiff Class, were terminated by  
21 or resigned from their positions with Defendant. Defendant, however, willfully and intentionally  
22 did not pay Plaintiff and Plaintiff Class all wages which were due to them upon their termination,  
23 or within seventy-two (72) hours of their resignation or termination as required by Labor Code  
24 section 202, subdivision (a). Defendant failed to pay to Plaintiff and Plaintiff Class all overtime  
25 wages and/or minimum wages which they were due throughout their employment for time spent  
26 during rest and recovery periods or working overtime hours. Such non-payment was a direct and  
27 refusal to do so by Defendant.

28 78. More than thirty (30) days has passed since affected Plaintiff and Plaintiff Class

1 have departed Defendant's employ, and on information and belief, they have not received  
2 payment pursuant to Labor Code section 203. As a consequence of Defendant's willful conduct  
3 in not paying all earned wages, Plaintiff and Plaintiff Class are entitled to thirty (3) days wages  
4 as a penalty under Labor Code section 203 for failure to pay legal wages.

5 79. Plaintiff and Plaintiff Class are also entitled to an additional thirty (30) days wages  
6 as a penalty under Labor Code section 203 for willful failure to pay one hour's wages in lieu  
7 thereof for denied rest and meal periods, together with interest thereon and attorney's fees and  
8 costs.

9 80. Pursuant to Labor Code section 203 Plaintiff and Plaintiff Class seek payment of  
10 penalties, established according to proof. Additionally, Plaintiff and Plaintiff Class is entitled to  
11 attorney's fees and costs, pursuant to Labor Code section 203 and prejudgment interest pursuant  
12 to Labor Code section 218.6 and Code of Civil Procedure section 3287.

13 **SIXTH CAUSE OF ACTION**

14 **INDEMNIFICATION FOR EXPENDITURES OR LOSSES IN DISCHARGE OF**  
15 **DUTIES**

16 **(Lab. Code, § 2802)**

17 **(By Plaintiff against All Defendant)**

18 81. Plaintiff realleges and incorporates by reference all preceding paragraphs of this  
19 complaint as if fully set forth herein.

20 82. Labor Code section 2902 states, 'An employer shall indemnify his or her employee  
21 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
22 discharge of his or her duties...'

23 83. Plaintiff and Plaintiff Class were not reimbursed by Defendant for necessary  
24 expenditures as a direct consequence of the discharge of their duties.

25 84. Defendant knowingly, willingly, and intentionally attempted to offset the cost of  
26 doing business on the Plaintiff and Plaintiff Class. Defendant had a corporate practice of requiring  
27 Plaintiff and Plaintiff Class to shoulder the burden of Defendant's cost of doing business by  
28 failing to reimburse Plaintiff and Plaintiff Class for necessary business expenditures.

1           85. Defendant failed to provide Plaintiff and Plaintiff Class the tools and equipment  
2 necessary for the discharge of their duties. Plaintiff and Plaintiff Class were required to purchase  
3 and provide their own tools, as well as replace the tools themselves if they were broken or  
4 damaged. These tools were necessary for Plaintiff and Plaintiff Class to perform their work for  
5 Defendant; therefore, the cost of the tools constitute necessary business expenses. Thus, the  
6 Defendant's policy of having Plaintiff and Plaintiff Class supply their own personal tools in order  
7 to carry out their employee duties, without reimbursement for said expenditure constitutes a  
8 violation of Labor Code section 2802.

9           86. Plaintiff and Plaintiff Class further allege that they were required by Defendant to  
10 use their personal cellphones during the course of their employment to send and receive work-  
11 related calls text messages, and emails. Thus, the Defendant's policy of having Plaintiff and  
12 Plaintiff Class supply their own personal cellphone in order to carry out their employee duties,  
13 without reimbursement for said expenditure constitutes a violation of Labor Code section 2802.

14           87. Plaintiff and Plaintiff Class further allege that during the course of their  
15 employment they were required by Defendant to make use of their personally owned vehicles, to  
16 regularly transport, without limitation, material and tools for Defendant between different work  
17 locations and other destinations for the Defendant's benefit. Thus, the Defendant's policy of  
18 having Plaintiff and Plaintiff Class make use of their own personally owned vehicles in order to  
19 carry out their employee duties, without reimbursement for said expenditure constitutes a  
20 violation of Labor Code section 2802.

21           88. Additionally, Plaintiff and Plaintiff Class, allege that during the course of their  
22 employment, Defendant controlled their appearance by requiring them to wear uniforms marked  
23 with the Defendant's company logos on each and the various job locations that they worked at  
24 for Defendant. Further, throughout the Class Period, Plaintiff and Plaintiff Class, were obligated  
25 to bear all costs and expenses associated with the upkeep of their uniforms. Thus, the Defendant's  
26 policy of requiring Plaintiff and Plaintiff Class to wear company uniforms with company logos,  
27 without providing maintenance or reimbursement for said expenditure constitutes a violation of  
28 California Labor Code section 2802.

1 89. Defendant has not reimbursed Plaintiff and Plaintiff Class for all expenditures.  
2 Plaintiff and Plaintiff Class are therefore entitled to be paid damages, attorneys' fees, costs, and  
3 interest pursuant to Labor Code section 2802, subdivisions (b) and (c), as well as all statutory  
4 penalties against Defendant in accordance with Labor Code section 2802, subdivision (d).

5 **SEVENTH CAUSE OF ACTION**

6 **UNFAIR/UNLAWFUL BUSINESS PRACTICES**

7 **(Business and Professions Code §§ 17200 et seq.)**

8 **(By Plaintiff against All Defendants)**

9 90. Plaintiff realleges and incorporates by reference all preceding paragraphs of this  
10 complaint as if fully set forth herein.

11 91. On information and belief, Plaintiff and Plaintiff Class alleges that Defendant  
12 engaged in conduct and maintained policies and practices that constitute false, fraudulent,  
13 unlawful, unfair and deceptive business practices in violation of Business and Professions Code  
14 section 17200 et seq. (hereinafter the “Unfair Competition Law”). Plaintiff and Plaintiff Class  
15 allege that each of the following policies and practice of Defendant violate the Unfair Competition  
16 Law:

- 17 a) Requiring employees to work in excess of five (5) hours per day without being  
18 provided a lawful meal period, and failing to compensate such employees with one  
19 (1) hour of pay at their regular rate of compensation for each workday that a meal  
20 period was not provided;
- 21 b) Requiring employees wot work without being provided a thirty (3) minute duty free  
22 lunch period for every five (5) hours worked;
- 23 c) Requiring employees to work without being provided a minimum ten (10) minute  
24 rest period for every four (4) hours or major fraction thereof worked, and failing to  
25 compensate such employees with one (1) hour of pay at their regular rate of  
26 compensation for each workday that a rest period was not provided;
- 27 d) For failing to institute policies and procedures that ensure accurate timekeeping and  
28 accurate itemized paystubs to Plaintiff and Plaintiff Class;

1 e) Failing to pay all earned wages, including overtime, and regular time wages, and  
2 failing to include remuneration when calculating the employees' regular rate of pay,  
3 to Plaintiff and Plaintiff Class; and

4 f) Failing to reimburse Plaintiff and Plaintiff Class for necessary business  
5 expenditures.

6 92. The actions of Defendant as alleged within this complaint constitute, false,  
7 fraudulent, unlawful, unfair, and deceptive business practices within the meaning of Business and  
8 Professions Code sections 17200 et seq.

9 93. Plaintiff and Plaintiff Class are entitled to other equitable relief against such  
10 unlawful practices in order to prevent future damage, for which there is no adequate remedy at  
11 law, and to avoid a multiplicity of lawsuits.

12 94. As a result of its unlawful acts, Defendant has reaped and continues to reap unfair  
13 benefits and unlawful profits at the expense of Plaintiff and Plaintiff Class. Defendant should be  
14 required to restore to Plaintiff and Plaintiff Class the wrongfully withheld wages pursuant to  
15 Business and Professions Code section 17203. Plaintiff is informed and believes, and thereon  
16 alleges, that Defendant has been unjustly enriched through Defendant's unlawful, unfair, and  
17 fraudulent business practices as alleged throughout this complaint, Plaintiff is informed and  
18 believes, and based thereon alleges, that Plaintiff and Plaintiff Class are prejudiced by  
19 Defendant's unfair trade practices.

20 95. As a direct and proximate result of Defendant's unfair business practices, Plaintiff  
21 and Plaintiff Class are entitled to equitable restitution of all wages which have been unlawfully  
22 withheld from Plaintiff and Plaintiff Class as a result of the business acts and practices described  
23 herein.

24 96. As a direct and proximate result of Defendant's violations, Plaintiff's rights under  
25 the law were violated because he suffered monetary losses. Plaintiff seeks special and general  
26 damages, together with injunctive relief to prohibit Defendant from violating the regulations  
27 alleged in this complaint, as well as any and all other available remedies. The action is seeking to  
28 vindicate a public right, and it would be against the interest of justice to penalize Plaintiff and

1 Plaintiff Class by forcing Plaintiff and Plaintiff Class to pay attorney’s fees from the recovery in  
2 this action. Attorney’s fees are appropriate pursuant to Code of Civil Procedure section 1021.5  
3 and otherwise.

4 **EIGHTH CAUSE OF ACTION**


5 **VIOLATION OF CALIFORNIA PRIVATE ATTORNEY GENERAL ACT**

6 **(Lab. Code, §§ 2698 et seq.)**

7 **(Plaintiff against Defendant and DOES 1-50)**

8 97. Plaintiff and Plaintiff Class hereby incorporate by reference all preceding  
9 allegations contained in the preceding paragraphs of this complaint.

10 98. Plaintiff and Plaintiff Class seek recovery of penalties under the Labor Code  
11 Private Attorney General Act of 2004 (“PAGA”), Labor Code sections 2698 et seq.

12 99. PAGA permits an “aggrieved employee” to recover penalties on behalf of  
13 himself/herself and other current and former employees as a result of an employer’s violations  
14 of the Labor Code, including, but not limited to, violations of Labor Codes sections 201, 202,  
15 203, 223, 226, 226.7, 510, 512, 558, 558.1, 1194, and 1197. 

16 100. Plaintiff and Plaintiff Class are aggrieved employees because they were  
17 employed by the alleged violator and the alleged violations were committed against them.

18 101. As set forth above, Defendant has violated Labor Codes sections 201, 202, 203,  
19 223, 226, 226.7, 510, 512, 558, 558.1, 1194, and 1197.

20 102. Plaintiff has complied with the PAGA notice provision set forth in Labor Code  
21 section 2699.3, subdivision (a)(1), by providing a certified letter dated April 30, 2019, to the  
22 Labor and Workforce Development Agency and to Defendant, providing the specific provisions  
23 of the Labor Code alleged to have been violated, including the facts and theories in support  
24 thereof. A true and correct copy of this correspondence and proof of delivery is attached hereto  
25 as **Exhibit “A”**.

26 103. The Labor and Workforce Development Agency have not provided Plaintiff with  
27 any notice that it intends to investigate the alleged violations and more than sixty-five (65)  
28 calendar days have elapsed since April 30, 2019, postmark date on Plaintiff’s notice. As of the



1 date of the filing of this complaint, Plaintiff has not received any notice from the Labor and  
2 Workforce Development Agency that it intends to investigate the alleged violations against  
3 Defendant.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff prays for the following relief:

- 6 1. For compensatory damages in an amount according to proof;
- 7 2. For general damages in an amount according to proof;
- 8 3. For punitive damages in an amount according to proof;
- 9 4. Injunctive relief, enjoining Defendants from engaging in the unlawful and  
10 unfair business practices complained herein;
- 11 5. For declaratory relief, enjoining Defendant's practices as unlawful and unfair  
12 business practices within the meaning of Business and Professions Code sections  
13 17200 et seq.;
- 14 6. For reasonable attorneys' fees and expenses pursuant to the Labor Code;
- 15 7. For costs of the suit herein incurred;
- 16 8. For civil penalties and statutory penalties in an amount according to proof; and
- 17 9. For such other and further relief as this Court may deem just and proper.

18  
19 Dated: July 24, 2019

**MAHONEY LAW GROUP, APC**

20  
21 By: /s/ Berkeh Alemzadeh  
22 Berkeh Alemzadeh, Esq.  
23 Attorney for Plaintiff JUAN LARA  
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28

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff JUAN LARA hereby demands a jury trial on all issues so triable.

3  
4 Dated: July 24, 2019

**MAHONEY LAW GROUP, APC**

5  
6  
7 By: /s/ Berkeh Alemzadeh  
8 Berkeh Alemzadeh, Esq.  
9 Attorney for Plaintiff JUAN LARA  
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# **EXHIBIT A**



Berkeh Alemzadeh Esq.  
(562) 590-5550 phone  
(562) 590-8400 facsimile  
balem@mahoney-law.net

April 30, 2019

**VIA ELECTRONIC MAIL**

LABOR AND WORKFORCE DEVELOPMENT AGENCY  
[PAGAfilings@dir.ca.gov](mailto:PAGAfilings@dir.ca.gov)

**VIA FIRST CLASS MAIL & CERTIFIED MAIL #: 7018 0680 0002 1514 2623**

Premiere Relocations Services Inc. dba Cummings Moving Co.  
275 S. Maple Avenue  
South San Francisco, California 94080

***Return Receipt Requested***

***Re: Juan Lara v. Premiere Relocations Services Inc. dba Cummings Moving Co.***

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO  
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency, Premiere Relocations Services Inc. dba Cummings Moving Co.; Amy Marie Messinger; and Enrique Palos

From: Juan Lara, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

**Factual Statement**

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Juan Lara ("Employee" or "Mr. Lara"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of himself and all other aggrieved employees.

**Theories of Labor Code Violations and Remedies**

Mr. Lara alleges Premiere Relocations Services Inc. dba Cummings Moving Co.; Amy Marie Messinger; Enrique Palos, ("Employers") violated various sections of the Labor Code, including sections 201, 202, 203, 204, 223, 226, 226.7, 510, 512, 558.1, 1194, and 1197, by failing to provide Mr. Lara and all other aggrieved employees all wages for all hours worked, including, but not limited to, regular hour, overtime hours and meal/rest period premium pay.

Employer controlled the work conditions, set policies and schedules, laid out criteria for paystubs, approved paychecks, kept timecards, and monitored hours worked by Mr. Lara and similarly aggrieved employees. However, Employer failed to pay Mr. Lara and other aggrieved employees for all hours worked at the legally mandated wage rates for all hours worked. Categorically, Employer failed to pay Mr. Lara and his co-workers the legally mandated overtime rate for all work performed during their shifts in violation of California law. Specifically, Mr. Lara regular work schedule was five (5) consecutive days per week, and approximately twelve (12) hours per day. Employer failed to compensate Mr. Lara and similarly aggrieved employees with their earned overtime wages in accordance with the California labor code when Mr. Lara and similarly aggrieved employees worked in excess of eight (8) hours per day and/or in excess of forty (40) hours per week. Employer's conduct, which is in violation of Labor Code sections 510 and 512, is actionable under PAGA.

Further, due to Employer's policies and practices, Mr. Lara and other aggrieved employees did not receive timely meal periods and/ or did not receive timely second meal periods on shifts greater than ten (10) hours in length. Due to inadequate staffing by Employer, Mr. Lara and his coworkers' meal breaks were regularly interrupted during and/or forced to forego their meal periods. Further, Employer failed to provide Mr. Lara and his co-workers with legally mandated rest periods, prevented Mr. Lara and his co-workers from taking off-duty rest periods, and/or routinely required Mr. Lara and his co-workers to work through their rest periods. On the occasions that Mr. Lara and his co-workers were prevented from taking timely meal and rest periods, Employer failed to provide them with premium pay for untimely, interrupted, and for being forced to completely forego meal period and rest period. Employer's conduct, which is in violation of Labor Code sections 226.7 and 512, is also actionable under PAGA.

As a result of Employer's failure to pay all wages owed as described herein, Employer further failed to keep accurate payroll records, and failed to provide Mr. Lara and other aggrieved employees with complete and accurate wage statements showing the actual hours worked and premium wages earned per pay period. This conduct entitles Mr. Lara and other aggrieved employees penalties, pursuant to Labor Code sections 226, subdivisions (a), (e) and section 1174, are actionable under Labor Code section 2699.5.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to their uniform policy, practice and procedure of failing to pay all wages earned to former employees. Moreover, Mr. Lara will allege in his complaint that Employer violated Labor Code section 204, since Mr. Lara, and his co-workers did not receive all their wages in a timely fashion as a result of Employer's policies.

Mr. Lara will bring this lawsuit on behalf of himself and a putative class of employees, as well as all other aggrieved employees who were employed by Employer.

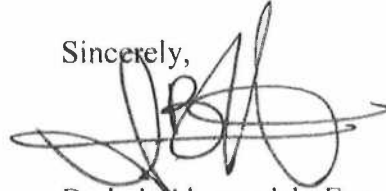
LABOR AND WORKFORCE DEVELOPMENT AGENCY

April 30, 2019

Page 3 of 3

Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'BA', with a long horizontal stroke extending to the right.

Berkeh Alemzadeh, Esq.

**MAHONEY LAW GROUP, APC**

**PROOF OF SERVICE**  
Code of Civ. Proc. § 1013a, subd. (3)

**STATE OF CALIFORNIA, COUNTY OF SAN MATEO**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 249 East Ocean Boulevard, Suite 814, Long Beach, California, 90802.

On **July 24, 2019**, I served true copies of the following document(s): **FIRST AMENDED COMPLAINT**. I served the document(s) on the person(s) below as follows:

Denis S. Kenny, Esq. John B. Lough, Esq. <b>Scherer Smith &amp; Kenny LLP</b> 140 Geary Street, Seventh Floor San Francisco, CA 94108  <b>Via Mail</b>	Attorneys for Defendants PREMIERE RELOCATIONS SERVICES, INC. dba CUMMINGS MOVING COMPANY  Telephone: (415) 433-1099 Facsimile: (415) 433-9434
Honorable Marie S. Weiner Department 2 complexcivil@sanmateocourt.org  <b>Via E-mail</b>	

The document(s) were served by the following means:

**By Mail:** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses above. I then placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am employed in the county where the mailing occurred. The envelope or package was placed in the mail at Long Beach, CA.

**By e-mail:** Based upon court order or an agreement of the parties to accept service by e-mail, I caused the document(s) to be sent to the persons at the electronic service addresses listed above from the email address dcarias@mahoney-law.net. Within a reasonable time after the transmission, no error, electronic message or any other indication that the transmission was unsuccessful was received.

**(State):** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **July 24, 2019**, at Long Beach, California.

/s/Wendy Ramirez  
Wendy Ramirez