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Superior Court of California  
County of Los Angeles

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10  
11 Attorneys for Plaintiffs and the Proposed Class

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF LOS ANGELES

14 JOSE MARIO CASTRO and BRETH  
15 ALEXANDER PONCE, as individuals, on  
16 behalf of themselves and proposed class  
members,

17 PLAINTIFFS,

18 v.

19 SOLA RENTALS, INC.; MARTIN MUOTO;  
20 and DOES 1 thru 50, inclusive,

21 DEFENDANTS.

CASE NO. 19STCV02041

FIRST AMENDED CLASS ACTION  
COMPLAINT

1. Failure to Pay Wages and/or Overtime Under Labor Code §§ 510, 1194, 1194.2, and 1199
2. Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7
3. Violation of Labor Code § 226(a)
4. Violation of Business & Professions Code § 17200
5. Labor Code § 2699, et seq.

1 Plaintiffs JOSE MARIO CASTRO and BRETH ALEXANDER PONCE, as individuals,  
2 on behalf of themselves, all proposed class members, complain of Defendants SOLA RENTALS,  
3 INC.; MARTIN MUOTO (“Defendants”) and each of them, as follows:

4 I.

5 INTRODUCTION

6 1. This is a Class Action, pursuant to Code of Civil Procedure § 382, on behalf of  
7 Plaintiffs and a Proposed Class defined as follows:

8 All individuals hired as independent contractors to be laborers, or a  
9 similar title, for SOLA RENTALS, INC.; MARTIN MUOTO, in the  
10 State of California who worked one or more pay periods since four  
11 (4) years prior to the filing of this action to the present. (“Proposed  
12 Class”)

13 2. Defendants have misclassified Plaintiffs and the Proposed Class as independent  
14 contractors, depriving them of wages, including minimum wages, and other benefits owed to them.

15 3. From at least four (4) years prior to the filing of this action continuing to the present,  
16 Defendants have had a consistent policy of failing to pay wages and/or overtime to all Proposed  
17 Class Members when they work more than eight hours in a day or forty hours in a week. Plaintiffs  
18 and other Proposed Class Members were not properly compensated for overtime at the appropriate  
19 rate of pay.

20 4. For at least four (4) years prior to the filing of this action and continuing to the  
21 present, Defendants have had a consistent policy of failing to inform Proposed Class Members of  
22 their right to take rest periods by way of a lawful policy and of failing to provide Proposed Class  
23 Members within the State of California, including Plaintiffs, rest periods of at least ten (10)  
24 minutes per four (4) hours worked or major fraction thereof and failing to pay such employees one  
25 (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest  
26 period was not provided, as required by California state wage and hour laws.

27 5. For at least one (1) year prior to the filing of this action continuing to the present,  
28 Defendants have failed to comply with Industrial Welfare Commission (“IWC”) Wage Order 16-  
2001 and Labor Code § 226(a) by failing to issue accurate itemized wage statements that reflect  
total hours worked by the employee, all applicable deductions, net wages earned, and all applicable

1 hourly rates in effect during the pay period and the corresponding number of hours worked at each  
2 hourly rate by the employee.

3 6. Plaintiffs, on behalf of themselves and all Proposed Class Members bring this  
4 action pursuant to Labor Code §§ 226(a), 226.7, 510, 1194, 1194.2, 1198.5 and 1199; Wage Order  
5 16-2001; and California Code of Regulations, Title 8, Section 11160, seeking unpaid  
6 wages/overtime, rest period penalties, accurate itemized wage statements, other penalties,  
7 injunctive and other equitable relief, and reasonable attorneys' fees and costs.

8 7. Plaintiffs, on behalf of themselves and all Proposed Class Members, pursuant to  
9 Business & Professions Code §§ 17200-17208, also seek injunctive relief, restitution, and  
10 disgorgement of all benefits Defendants enjoyed from its unlawful conduct as described herein.

11 8. For at least one (1) year prior to the date of the letter sent to the Labor Workforce  
12 Development Agency and Defendants giving notice of the claims pursuant to Labor Code § 2699,  
13 *et seq.* ("PAGA") and continuing to the present, Defendant has violated several Labor Code  
14 sections that give rise to a claim pursuant to PAGA. Plaintiffs brings this cause of action on behalf  
15 of themselves and all aggrieved employees as defined in their notice letter to the LWDA. (See  
16 Exhibits "1" and "2.")

## 17 II.

### 18 JURISDICTION AND VENUE

19 9. This Court has subject matter jurisdiction over all causes of action asserted herein  
20 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure  
21 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive  
22 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the  
23 State of California or is subject to adjudication in the courts of the State of California.

24 10. This Court has personal jurisdiction over Defendants because Defendants have  
25 caused injuries in the County of Los Angeles and the State of California through their acts, and by  
26 their violation of the California Labor Code, California state common law, and California Business  
27 & Professions Code § 17200, *et seq.*

28 11. Venue as to each Defendants is proper in this judicial district, pursuant to Code of

1 Civil Procedure § 395. Defendants operate within California and does business within Los  
2 Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiffs and all  
3 Proposed Class Members within the State of California and the county of Los Angeles.

4 12. This case should be classified as complex according to Rule 3.400 of the California  
5 Rules of Court, and assigned to a complex litigation judge and department, as it will involve  
6 substantial documentary evidence, a large number of witnesses, and is likely to involve extensive  
7 motion practice raising difficult or novel issues that will be time-consuming to resolve and would  
8 require substantial post judgment judicial supervision.

9 III.

10 PARTIES

11 A. PLAINTIFFS

12 13. Plaintiffs JOSE MARIO CASTRO and BRETH ALEXANDER PONCE are  
13 residents of California.

14 14. Plaintiffs and all Proposed Class Members, were regularly required to:

15 a. Work as independent contractors though Defendants willfully misclassified  
16 them and they were actually employees of Defendants;

17 b. Work without being compensated at the minimum wage rate;

18 c. Work without being compensated for all hours worked at the proper  
19 overtime rate for all overtime hours worked;

20 d. Work without being provided rest periods; and

21 e. Work without being provided accurate itemized wage statements that  
22 reflect, among other requirements, total hours worked by the employee, all deductions, net wages  
23 earned, and all applicable hourly rates in effect during the pay period and the corresponding  
24 number of hours worked at each hourly rate by the employee.

25 15. As a result of this conduct, Defendants have engaged in unfair competition and  
26 unlawful business practices.

27 16. Plaintiffs and all current and former employees are aggrieved employees within the  
28 meaning of Labor Code § 2699, *et seq.* (See Labor Code § 2699(c).)



1           22.     Plaintiffs and the Proposed Class are, and at all times pertinent hereto, have been  
2 classified as independent contractors by Defendants. Defendants hire “contractors” to be laborers  
3 who are paid daily or hourly rate consistently below the legal minimum wage for all hours worked  
4 and who are not compensated for overtime hours worked.

5           23.     Labor Code § 226.8 makes it unlawful for any person or employer to willfully  
6 misclassify an individual as an independent contractor. Defendants willfully misclassified  
7 Plaintiffs and the Proposed Class as independent contractors when they are actually employees.

8           24.     Based on the level of control exerted by Defendants and a variety of other relevant  
9 factors, Plaintiff and the Proposed Class are employees and not independent contractors.

10          25.     Upon information and belief, Plaintiffs and the Proposed Class are covered by  
11 California Industrial Welfare Commission Occupational Wage Order No. 16-2001 (Title 8 Cal.  
12 Code of Regs. § 11160).

13          26.     On a regular and consistent basis, Plaintiffs and the Proposed Class Members were  
14 not paid at the minimum wage rate.

15          27.     On a regular and consistent basis, Plaintiffs and Proposed Class Members were not  
16 properly compensated for overtime at the appropriate rate of pay because Defendants failed to  
17 compensate them at the appropriate overtime rate when they worked over eight hours in one day  
18 or forty hours in one week.

19          28.     Plaintiffs and the Proposed Class have been required to work four hour increments  
20 (or major fractions thereof) without being provided with a ten (10) minute rest period.  
21 Additionally, Defendants failed to inform Plaintiffs and the Proposed Class of their right to take  
22 rest periods by way of a lawful policy.

23          29.     Defendants have failed to comply with Industrial Welfare Commission (“IWC”)  
24 Wage Order 16-2001(7) and Labor Code § 226(a) by failing to maintain accurate itemized wage  
25 statements that reflect, among other requirements, total hours worked by the employee, all  
26 applicable deductions, net wages earned, and all applicable hourly rates in effect during the pay  
27 period and the corresponding number of hours worked at each hourly rate by the employee.

28          30.     As a result of the acts alleged herein, Defendant violated Labor Code § 2699, *et*

1 *seq.*

2 V.

3 CLASS ACTION ALLEGATIONS

4 31. Plaintiffs bring this action on behalf of themselves and all others similarly situated  
5 as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiffs seek to represent a  
6 proposed class composed of and defined as follows:

7 All individuals hired as independent contractors to be laborers, or a  
8 similar title, for SOLA RENTALS, INC.; MARTIN MUOTO, in the  
9 State of California who worked one or more pay periods since four  
10 (4) years prior to the filing of this action to the present. ("Proposed  
11 Class")

12 32. Plaintiffs reserve the right under Rule 3.765(b) of the California Rules of Court to  
13 amend or modify the class description with greater specificity, by division into subclasses, or by  
14 limitation to particular issues.

15 33. This action has been brought and may properly be maintained as a class action  
16 under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined  
17 community of interest in the litigation and the Proposed Classes are easily ascertainable.

18 A. NUMEROSITY

19 34. The potential members of the Proposed Class as defined are so numerous that  
20 joinder of all the members of the Proposed Class is impracticable. While the precise number of  
21 proposed Class Members has not been determined at this time, Plaintiffs are informed and believe  
22 that Defendants currently employ, and during the relevant time periods employed over 50 members  
23 of the Proposed Class.

24 35. Plaintiffs allege that Defendants' employment records would provide information  
25 as to the number and location of all Proposed Class Members. Joinder of all members of the  
26 Proposed Class is not practicable.

27 B. COMMONALITY

28 36. There are questions of law and fact common to the Proposed Class that predominate  
over any questions affecting only individual Proposed Class Members. These common questions

1 of law and fact include, without limitation:

2 a. Whether Defendants misclassified Plaintiffs and the Proposed Class  
3 members as independent contractors;

4 b. Whether Defendants failed to pay wages and/or overtime compensation as  
5 required by the Labor Code and applicable Wage Orders under Labor Code §§ 510, 1194, 1194.2  
6 and 1199;

7 c. Whether Defendants violated Labor Code § 226.7 and IWC Wage Order 16  
8 -2001 or other applicable IWC Wage Orders, by failing to inform Plaintiffs and the Proposed Class  
9 of their right to take rest periods and failing to provide required rest periods throughout the term  
10 of employment and failing to compensate said employees one (1) hours wages in lieu of rest  
11 periods;

12 d. Whether Defendants violated Labor Code § 226(a) and Wage Order 16-  
13 2001 or other applicable IWC Wage Orders, and Cal. Code Regs., Title 8, Section 11160 by failing  
14 to maintain accurate itemized wage statements that reflect total hours worked by the employee, all  
15 applicable deductions, and all applicable hourly rates in effect during the pay period and the  
16 corresponding number of hours worked at each hourly rate by the employee;

17 e. Whether Defendants violated § 17200, *et seq.* of the Business & Professions  
18 Code by engaging in the acts previously alleged; and

19 f. Whether Plaintiffs and the members of the Proposed Class are entitled to  
20 equitable relief pursuant to Business & Professions Code § 17200, *et seq.*

21 g. Whether Defendant violated Labor Code §2699, *et seq.* based on the facts  
22 alleged.

23 **C. TYPICALITY**

24 37. The claims of Plaintiffs are typical of the claims of the Proposed Class. Plaintiffs  
25 and all members of the Proposed Class sustained injuries and damages arising out of and caused  
26 by Defendants' common course of conduct in violation of laws, regulations that have the force and  
27 effect of law, and statutes as alleged herein.

28 **D. ADEQUACY OF REPRESENTATION**





1 43. Defendants willfully misclassified Plaintiffs and members of the Proposed Class as  
2 independent contractors though they were, in fact, employees.

3 44. Defendants failed to properly compensate Plaintiffs and members of the Proposed  
4 Class. Defendants did not pay Plaintiffs and members of the Proposed Class the legal minimum  
5 wage applicable, as mandated by the State of California.

6 45. Additionally, Defendants failed to compensate Plaintiffs and the Proposed Class at  
7 the appropriate overtime rate for all hours worked up to eight (8) hours in a single workday and  
8 forty (40) hours in a single workweek.

9 46. By their policy of requiring Plaintiffs and members of the Proposed Class to work  
10 without the minimum wage and in excess of eight (8) hours in a workday and/or forty (40) hours  
11 in a workweek without compensating them at the rate of one-half (1 ½) their regular rate of pay,  
12 Defendants willfully violated the provisions of Labor Code §§ 510, 1194 and 1199.

13 47. As a result of the unlawful acts of Defendants, Plaintiffs and the Proposed Class  
14 Members have been damaged in an amount subject to proof at time of trial.

15 48. Pursuant to Labor Code §§ 510, 1194, 1194.2 and 1199, and Code of Regulations,  
16 Title 8, Section 11160, Plaintiffs are entitled to recover damages for the nonpayment of wages and  
17 overtime premiums for all hours worked, penalties, interest, plus reasonable attorneys' fees, and  
18 costs of suit.

19 VII.

20 SECOND CAUSE OF ACTION

21 PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS

22 AGAINST ALL DEFENDANTS FOR FAILURE TO ALLOW REST PERIODS

23 PURSUANT TO LABOR CODE § 226.7

24 49. Plaintiffs, on behalf of themselves and the proposed Class, reallege and incorporate  
25 by reference all previous paragraphs.

26 50. Labor Code § 226.7 requires an employer to pay an additional hour (1) of  
27 compensation for each rest period the employer fails to provide. Employees are entitled to a paid  
28 ten (10) minute rest break for every four (4) hours worked (or major fraction thereof). Defendants

1 failed to maintain a policy informing Plaintiffs and the Proposed Class of this right.

2 51. Plaintiffs and the Class consistently worked shifts with no rest breaks, and  
3 Defendants failed to maintain an accurate policy advising Plaintiffs and the Class of these rest  
4 breaks and failed to provide Plaintiffs and the Class with rest breaks of not less than ten (10)  
5 minutes as required by the Labor Code during the relevant time period.

6 52. Pursuant to Labor Code § 226.7, Plaintiffs and the Proposed Class are entitled to  
7 damages in an amount equal to one (1) hour of wages per missed rest period, in a sum to be proven  
8 at trial.

9 VIII.

10 THIRD CAUSE OF ACTION

11 PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS

12 AGAINST ALL DEFENDANTS FOR VIOLATION OF LABOR CODE § 226(A)

13 53. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate  
14 by reference all previous paragraphs.

15 54. California Labor Code § 226(a) requires employers to maintain accurate itemized  
16 wage statements that reflect total hours worked by the employee, all deductions (provided that all  
17 deductions made on written orders of the employee may be aggregated and shown as one item),  
18 net wages earned, and all applicable hourly rates in effect during the pay period and the  
19 corresponding number of hours worked at each hourly rate by the employee, among other  
20 requirements.

21 55. Defendants have failed to provide accurate itemized wage statement to Plaintiffs  
22 and the Proposed Class in violation of Labor Code § 226(a).

23 56. Defendants' failure to provide accurate itemized wages statements according to  
24 Labor Code § 226(a) was all done on a regular and consistent basis.

25 57. An employee suffering injury as a result of a knowing and intentional failure by an  
26 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual  
27 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred  
28 dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an

1 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and  
2 reasonable attorneys' fees.

3 IX.

4 FOURTH CAUSE OF ACTION

5 PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS  
6 AGAINST ALL DEFENDANTS FOR UNFAIR COMPETITION PURSUANT TO  
7 BUSINESS & PROFESSIONS CODE § 17200

8 58. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate  
9 by reference all previous paragraphs.

10 59. This is a Class Action for Unfair Business Practices. Plaintiffs, on behalf of  
11 themselves, on behalf of the general public, and on behalf of the Proposed Class, bring this claim  
12 pursuant to Business & Professions Code § 17200, *et seq.* The conduct of Defendants as alleged  
13 in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiffs, the  
14 general public, and the Proposed Class. Plaintiffs seek to enforce important rights affecting the  
15 public interest within the meaning of Code of Civil Procedure § 1021.5.

16 60. Plaintiffs are "persons" within the meaning of Business & Professions Code  
17 § 17204, and therefore have standing to bring this cause of action for injunctive relief, restitution,  
18 and other appropriate equitable relief.

19 61. Business & Profession Code § 17200, *et seq.* prohibits unlawful and unfair business  
20 practices.

21 62. California's wage and hour laws express fundamental public policies. Providing  
22 employees with proper wages and compensation are fundamental public policies of this State and  
23 of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce  
24 vigorously minimum labor standards, to ensure that employees are not required or permitted to  
25 work under substandard and unlawful conditions, and to protect law-abiding employers and their  
26 employees from competitors who lower their costs by failing to comply with minimum labor  
27 standards.

28 63. Defendants have violated statutes and public policies as alleged herein. Through

1 the conduct alleged in this Complaint, Defendants have acted contrary to these public policies,  
2 have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair  
3 business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving Plaintiffs,  
4 and all persons similarly situated, and all interested persons of rights, benefits, and privileges  
5 guaranteed to all employees under law.

6 64. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in  
7 violation of § 17200, *et seq.* of the Business & Professions Code.

8 65. Defendants, by engaging in the conduct herein alleged, either knew or in the  
9 exercise of reasonable care, should have known that the conduct was unlawful. As such it is a  
10 violation of § 17200, *et seq.* of the Business & Professions Code.

11 66. As a proximate result of the above-mentioned acts of Defendants, Plaintiffs and  
12 others similarly situated have been damaged in a sum as may be proven.

13 67. Unless restrained, Defendants will continue to engage in the unlawful conduct as  
14 alleged above. Pursuant to the Business & Professions Code, this court should make such orders  
15 or judgments, including the appointment of a receiver, as may be necessary to prevent the use or  
16 employment by Defendants, its agents, or employees, of any unlawful or deceptive practices  
17 prohibited by the Business & Professions Code, and/or, including but not limited to, restitution  
18 and disgorgement of profits which may be necessary to restore Plaintiffs and members of the  
19 proposed Class the money Defendants has unlawfully failed to pay.

20 X.

21 FIFTH CAUSE OF ACTION

22 PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS  
23 AGAINST ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE §  
24 2699, ET SEQ.

25 68. Plaintiffs, on behalf of themselves and the aggrieved employees, reallege and  
26 incorporate by reference all previous paragraphs.  
27  
28

1 69. As a result of the acts alleged above, Plaintiffs seek penalties under Labor Code  
2 § 2699, *et seq.* because of Defendants' violation of Labor Code §§ 226(a), 226.7, 510, 1194,  
3 1194.2, 1198.5, and 1199, which call for civil penalties.

4 70. For each such penalty, Plaintiffs and the Aggrieved Employees are entitled to  
5 penalties in an amount to be shown at trial, subject to the following formula:

6 a. \$100 for the initial violation per employee per pay period.

7 b. \$200 for each subsequent violation per employee per pay period.

8 71. These penalties shall be allocated seventy-five percent (75%) to the Labor and  
9 Workforce Development Agency (LWDA) and twenty-five percent (25%) to the affected  
10 employees.

11 72. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded a notice letter to the  
12 LWDA and mailed a letter by certified mail to Defendant Sola Rentals, Inc.; and Martin Muoto as  
13 proscribed by the Code on January 18, 2019 describing Defendant's conduct in violation of the  
14 Labor Code. (See Exhibit "1".)

15 73. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded an amended notice letter  
16 to the LWDA and mailed a letter by certified mail to Defendant Sola Rentals, Inc.; and Martin  
17 Muoto as proscribed by the Code on February 14, 2019 describing Defendant's conduct in  
18 violation of the Labor Code. (See Exhibit "2".)

19 74. Plaintiff also paid the filing fee of \$75.00 by check made out to the LWDA  
20 accompanied by a cover letter identifying that it applies to this Action. (See Exhibit "3".) As no  
21 letter evidencing the LWDA's intention to investigate was received by Plaintiff's Counsel within  
22 sixty-five (65) calendar days, Plaintiff is entitled to commence a civil action as though the LWDA  
23 had not chosen to investigate pursuant to Labor Code § 2699.3(a)(2)(A). Plaintiff will also provide  
24 the LWDA with a filed-stamped copy of the First Amended Complaint immediately.

25 **RELIEF REQUESTED**

26 **WHEREFORE**, Plaintiffs pray for the following relief:

27 1. For compensatory damages in the amount of unpaid minimum wages and/or  
28 overtime not paid to Plaintiffs and each Proposed Class Member from at least four (4) years prior

1 to the filing of this action to the present as may be proven;

2 2. For compensatory damages in the amount of Plaintiffs' and each Proposed Class  
3 Members' hourly wage for each rest period missed or taken late from at least four (4) years prior  
4 to the filing of this action to the present as may be proven;

5 3. For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a)  
6 in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs and one  
7 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding  
8 an aggregate penalty of four thousand dollars (\$4,000);

9 4. An award of prejudgment and post judgment interest;

10 5. An order enjoining Defendants and its agents, servants, and employees, and all  
11 persons acting under, in concert with, or for it from providing Plaintiffs with proper wages and/or  
12 overtime, rest periods, accurate itemized wage statements pursuant to Labor Code §§ 226(a),  
13 226.7, 510, 1194, 1194.2, 1198.5, 1199 and IWC 16-2001;

14 6. For restitution for unfair competition pursuant to Business & Professions Code  
15 § 17200, *et seq.*, including disgorgement or profits, in an amount as may be proven;

16 7. Penalties Pursuant to Labor Code § 2699, *et seq.* for a violation of Labor Code §§  
17 226(a), 226.7, 510, 1194, 1194.2, 1198.5, and 1199;

18 8. An award providing for payment of costs of suit;

19 9. An award of attorneys' fees; and

20 10. Such other and further relief as this Court may deem proper and just.

21 **DEMAND FOR JURY TRIAL**

22 Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

23 DATED: April 4, 2019

KINGSLEY & KINGSLEY, APC

24  
25 By: \_\_\_\_\_

26 LIANE KATZENSTEIN LY  
27 Attorneys for Plaintiffs JOSE MARIO CASTRO;  
28 BRETH ALEXANDER PONCE and the Proposed  
Class

EXHIBIT "1"





Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name Your Last Name Firm Name (if any) Your Email Address  
 LIANE KATZENSTEIN LY KINGSLEY & KINGSLEY, APC SERVICE@KINGSLEYKINGSLEY.COM

Your Street Name, Number and Suite/Apt Your Mobile Phone Number  
 16133 VENTURA BLVD., SUITE 1200 8189908300

Your City Your Work Phone Number  
 ENCINO

Your State  
 California

Your Zip/Postal Code  
 91436

Plaintiff Information

Plaintiff/Aggrieved Employee Name Plaintiff/Aggrieved Employee Occupation  
 JOSE MARIO CASTRO; BRETH ALEXANDER PONCE

Employer Information

Employer Entity Type Employer Industry Employer NAICS code Employer Name  
 SOLA RENTALS, INC.

Employer Street Name, Number and Suite/Apt Employer City Employer State Employer Zip/Postal Code  
 7420 S. VERMONT AVE. LOS ANGELES California 90044

Notice General Information

Estimated Number of Employees Impacted by Violations Postmark Date of Notice Sent to Employer  
 01/18/2019

Notice Violations – Check All that Apply \*

Misclassification Employee Classified as Contractor  
 – Misclassification Employee Classified as Contractor

Misclassification NonExempt Classified as Exempt

Child Labor Specify Ages

Minimum Wage

Overtime  
 – Overtime

Not paid for all hours worked

EXHIBIT

1

- Not paid for all hours worked
- Not paid wages due on termination
- Other Unpaid Wages
- Tips or Gratuities
- Payment or Reimbursement of Employee Expenses
- Improper Form of Payment Including NSF Checks
- Kickbacks
- Meal and Rest Breaks
  - Meal and Rest Breaks
- Sick Leave
- Lactation Accommodation (Labor Code 1030-1033)
- Not providing required time off, other
- Pay Discrimination on basis of sex, (Labor Code 1197.5)
- No Wage Statements
  - No Wage Statements
- Improper or Incomplete Wage Statements
- Other Notice or Posting or Recordkeeping
- Public Works (Labor Code 1720 - 1815)
- Apprenticeship (Labor Code 3070 - 3098)
- Occupational Safety and Health (Labor Code 6300 et seq)
- No Workers' Compensation
- Licensing, Registration, or Permit
- Unfair Immigration Activities
- Agricultural Labor Relations
- Industrial Homework
- Retaliation for Protected Status or Activity (Specify)
- Please Provide Details of Retaliation
- Other(Maybe Multiple)

PAGA Claim Type - Check All that Apply \*

- Includes one or more listed in Labor Code 2699.5- not curable subject to 2699.3(a)
- Includes one or more listed in Labor Code 2699.5- not curable subject to 2699.3(a)
- Includes one or more OSHA violations subject to requirements of 2699.3(b)
- Includes one or more violations not listed in Labor Code 2699.5 - curable subject to 2699.3(c)

Filing Fee

IFP

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf)

LWDA Letter – Sola Rentals, Inc..pdf

Other Attachment – (if any) (must be a .pdf)

Should you have questions regarding this online form, please contact [PAGAInfo@dir.ca.gov](mailto:PAGAInfo@dir.ca.gov)

*Attached File:*

LWDA Letter – Sola Rentals, Inc..pdf (237 KB)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.  
[Click Here to Search Case](#)

## Michael Navidad

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**From:** noreply@salesforce.com on behalf of LWDA DO NOT REPLY  
<lwdadonotreply@dir.ca.gov>  
**Sent:** Friday, January 18, 2019 9:31 AM  
**To:** Service Email  
**Subject:** Thank you for submission of your PAGA Case.

1/18/2019

LWDA Case No. LWDA-CM-657326-19

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

Misclassification Employee Classified as Contractor	<input checked="" type="checkbox"/>
Misclassification Nonexempt Classified as Exempt	<input type="checkbox"/>
Child Labor	<input type="checkbox"/>
Specify Ages	<input type="checkbox"/>
Minimum Wage	<input type="checkbox"/>
Overtime	<input checked="" type="checkbox"/>
Not paid for all hours worked	<input checked="" type="checkbox"/>
Not paid wages due on termination	<input type="checkbox"/>
Other Unpaid Wages	<input type="checkbox"/>
Tips or Gratuities	<input type="checkbox"/>
Payment or Reimbursement of Employee Expenses	<input type="checkbox"/>
Improper Form of Payment Including NSF Checks	<input type="checkbox"/>
Kickbacks	<input type="checkbox"/>
Meal and Rest Breaks	<input checked="" type="checkbox"/>
Sick Leave	<input type="checkbox"/>
Lactation Accommodation (Labor Code 1030-1033)	<input type="checkbox"/>
Not providing required time off, other	<input type="checkbox"/>
Pay Discrimination on basis of sex, (Labor Code 1197.5)	<input type="checkbox"/>
No Wage Statements	<input checked="" type="checkbox"/>
Improper or Incomplete Wage Statements	<input type="checkbox"/>
Other Notice or Posting or Recordkeeping	<input type="checkbox"/>
Public Works (Labor Code 1720 - 1815)	<input type="checkbox"/>
Apprenticeship (Labor Code 3070 - 3098)	<input type="checkbox"/>
Occupational Safety and Health (Labor Code 6300 et seq)	<input type="checkbox"/>
No Workers' Compensation	<input type="checkbox"/>
Licensing, Registration, or Permit	<input type="checkbox"/>
Unfair Immigration Activities	<input type="checkbox"/>
Agricultural Labor Relations	<input type="checkbox"/>
Industrial Homework	<input type="checkbox"/>
Retaliation for Protected Status or Activity (Specify)	<input type="checkbox"/>
Other(Maybe Multiple)	<input type="checkbox"/>

APPROVED FOR FILING  
by: \_\_\_\_\_

PAGA Claim Type - Check All that Apply

Includes one or more listed in Labor Code 2699.5- not curable subject to 2699.3(a) <i>[subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.]</i>	<input checked="" type="checkbox"/>
Includes one or more OSHA violations subject to requirements of 2699.3(b)	<input type="checkbox"/>
Includes one or more violations not listed in Labor Code 2699.5 - curable subject to 2699.3(c) <i>[(6) and (8) of subdivision (a) of Section 226]</i>	<input type="checkbox"/>

GEORGE R. KINGSLEY \*  
ERIC B. KINGSLEY  
DARREN M. COHEN °  
LIANE KATZENSTEIN LY  
KELSEY M. SZAMET  
ARI J. STILLER  
LUBA LERNER  
JUSTIN M. AUFOERHAR  
DAVID KELEDJIAN

**KINGSLEY & KINGSLEY**  
A PROFESSIONAL CORPORATION  
CITY NATIONAL BANK BUILDING  
16133 VENTURA BOULEVARD, SUITE 1200  
ENCINO, CALIFORNIA 91436  
(818) 990-8300  
FAX (818) 990-2903

\* RETIRED  
° OF COUNSEL

January 18, 2019

LABOR & WORKFORCE DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612

Sola Rentals, Inc.  
7420 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7015 0640 0003 6593 0786*

Martin Muoto  
7420 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7015 0640 0003 6593 1882*

Re: JOSE MARIO CASTRO and BRETH ALEXANDER PONCE v. SOLA  
RENTALS, INC.; MARTIN MUOTO  
*California Labor Code § 2699 Penalties*

Gentlepersons:

This office represents JOSE MARIO CASTRO and BRETH ALEXANDER PONCE ("Plaintiffs") and a proposed group of current and former employees working for SOLA RENTALS, INC.; MARTIN MUOTO ("Defendants") in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiffs and all of Defendants' aggrieved employees.

Plaintiffs wish to bring a representative action on behalf of themselves and the State of California as well as on behalf of a group of aggrieved employees defined as: All individuals hired as independent contractors to be laborers, or a similar title, for SOLA RENTALS, INC; MARTIN MUOTO in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present. ("aggrieved employees").

At all relevant times, Muoto was an owner, director, officer, and managing agent of Defendant SOLA RENTALS, INC. Muoto qualifies as a "person acting on behalf of an employer" under Labor Code § 558.1 and is liable for the wages and penalties alleged in this letter.

LABOR & WORKFORCE DEVELOPMENT AGENCY

*California Labor Code §2699 Penalties*

January 18, 2019

Page 2 of 3

Labor Code § 226.8 makes it unlawful for any person or employer to willfully misclassify an individual as an independent contractor. Defendants willfully misclassified Plaintiffs and other aggrieved employees as independent contractors though they were, in fact, employees. Defendants' failure to properly classify as employees Plaintiffs and all aggrieved employees was done on a regular and consistent basis.

Defendants failed to pay Plaintiffs and all aggrieved employees proper wages for all hours worked at the proper corresponding rate in violation of Labor Code §§ 510, 1194, 1194.2, and 1199. Every employer is required to pay each employee not less than the applicable minimum wage for all hours worked and at the applicable overtime rate for work performed over 8 hours per day and/or 40 hours per week. Plaintiffs and other aggrieved employees were not paid at the proper corresponding rate for all hours worked, including overtime as a result of Defendants' misclassification of these individuals as independent contractors. At times, Plaintiffs and the aggrieved employees were not compensated at all for hours that they worked.

Pursuant to Labor Code § 226.7 and Wage Order 16-2001, Defendants failed to provide Plaintiffs and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. On a regular and consistent basis, Defendants failed to provide Plaintiffs and the aggrieved employees with rest periods despite regularly requiring Plaintiffs and the aggrieved employees to work over eight (8) hours. As such, Defendants failed to provide Plaintiffs and the aggrieved employees with compliant rest periods. Further, Plaintiffs and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7.

Labor Code §226(a) requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing a number of specified requirements, including total hours worked by the employee, all deductions, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, among other requirements. Defendants failed to issue Plaintiffs and the aggrieved employees with itemized wage statements at all. As such, Plaintiffs are aggrieved employees within the meaning PAGA and Defendants have violated Labor Code §226(a) with respect to Plaintiffs and the Aggrieved Employees.

Given these allegations, Plaintiffs request that Defendants pay back any wages owed from one year prior to the date of this letter to the present, pursuant to Labor Code § 558.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 226(a), 226.7, 226.8, 558, 1194, 1194.2, and 1199 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,



LABOR & WORKFORCE DEVELOPMENT AGENCY  
*California Labor Code §2699 Penalties*  
January 18, 2019  
Page 3 of 3

KINGSLEY & KINGSLEY, APC

By: \_\_\_\_\_

Liane Katzenstein Ly

LKL/gs

Cc: 1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/198>

EXHIBIT "2"

### New PAGA Claim Notice



### Private Attorneys General Act (PAGA) – Filing

### New PAGA Claim Notice

#### Your Information (Person Who is Filing)

Your First Name \*

Liane

Your Last Name \*

Ly



Firm Name (if any) \*

Kingsley & Kingsley, APC

Your Email Address

service@kingsleykingsley.

(Enter "in pro per" if you are representing yourself)

Your Street Name, Number and Suite/Apt \*

16133 Ventura Blvd., Suite

Your Mobile Phone Number

Your City \*

Encino

Your Work Phone Number

(818) 990-8300

Your State \*

California

Your Zip/Postal Code \*

91436

#### Plaintiff Information

Plaintiff/Aggrieved Employee Name \*

Jose Mario Castro

Plaintiff/Aggrieved Employee Occupation \*

Laborer

EXHIBIT

2

Plaintiff Information

[Remove](#)

Plaintiff/Aggrieved Employee Name \*

Breth Alexander Ponce

Plaintiff/Aggrieved Employee Occupation \*

Laborer

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name \*

Sola Rentals, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt

Employer City

Employer State

Please select...

Employer Zip/Postal Code

Employer Industry

Please select...

Add additional defendants

- Add any entity other than an individual
- Add an individual/sole proprietor employer

Additional Employer Information (Individual/Sole Proprietor)

Employer Entity Type

Individual/Sole Proprietor

Employer First Name \*

Martin

Employer Last Name \*

Muoto

Employer Street Name, Number and Suite/Apt

Employer City

Employer State

Please select...

Employer Zip/Postal Code

Employer Industry

Please select...

[Add Additional Employers](#)

Notice General Information

Estimated Number of Employees Impacted by Violations

Notice Violations – Check All that Apply \*

Misclassification Employee Classified as Contractor

Misclassification NonExempt Classified as Exempt

Child Labor

Specify Ages

Minimum Wage

Overtime

Not paid for all hours worked

Not paid wages due on termination

Other Unpaid Wages

Tips or Gratuities

Payment or Reimbursement of Employee Expenses

Improper Form of Payment Including NSF Checks

Kickbacks

Meal and Rest Breaks

Sick Leave

- Lactation Accommodation (Labor Code 1030-1033)
- Not providing required time off, other
- Pay Discrimination on basis of sex, (Labor Code 1197.5)
- No Wage Statements
- Improper or Incomplete Wage Statements
- Other Notice or Posting or Recordkeeping
- Public Works (Labor Code 1720 - 1815)
- Apprenticeship (Labor Code 3070 - 3098)
- Occupational Safety and Health (Labor Code 6300 et seq)
- No Workers' Compensation
- Licensing, Registration, or Permit
- Unfair Immigration Activities
- Agricultural Labor Relations
- Industrial Homework
- Retaliation for Protected Status or Activity (Specify)

Please Provide Details of Retaliation

Other(Maybe Multiple)

Other Violation

PAGA Claim Type – Check All that Apply \*

- Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice. Filing fees should be paid by check, made out to LWDA, and sent by regular mail to:

Department of Industrial Relations  
 Accounting Unit  
 455 Golden Gate Ave, 10th Floor  
 San Francisco, CA 94102

The check should be accompanied by a cover letter with sufficient information to identify the notice, including the LWDA case number assigned upon submission of this form.

Parties requesting in forma pauperis status should complete a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form and submit it online with the notice below.

IFP

- I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.
- I declare that I have or will pay the filing fees required by statute [Labor Code section 2699.3(a)(1) (B)] according to the instructions on the PAGA home page, unless I have claimed in forma pauperis by checking the box below.

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) \*

Choose File Amended LWDA ...ls, Inc..pdf

Other Attachment – (if any) (must be a .pdf)

Choose File No file chosen

Add Another Attachment

Should you have questions regarding this online form, please contact [PAGAInfo@dir.ca.gov](mailto:PAGAInfo@dir.ca.gov)

**IMPORTANT NOTICE OF REDACTION RESPONSIBILITY:** All filers must redact: Social Security or taxpayer identification numbers; dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Submit



Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

**Cristina Terrazas**

---

**From:** noreply@salesforce.com on behalf of LWDA DO NOT REPLY  
<lwdadonotreply@dir.ca.gov>  
**Sent:** Thursday, February 14, 2019 2:51 PM  
**To:** Service Email  
**Subject:** Thank you for submission of your PAGA Case.

2/14/2019

LWDA Case No. LWDA-CM-666822-19

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

GEORGE R. KINGSLEY \*  
ERIC B. KINGSLEY  
DARREN M. COHEN °  
LIANE KATZENSTEIN LY  
KELSEY M. SZAMET  
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16133 VENTURA BOULEVARD, SUITE 1200  
ENCINO, CALIFORNIA 91436  
(818) 990-8300  
FAX (818) 990-2903

\* RETIRED  
° OF COUNSEL

February 14, 2019

LABOR & WORKFORCE DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612

Sola Rentals, Inc.  
8629 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7017 2620 0001 1072 8055*

Sola Rentals, Inc.  
7420 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7015 0640 0003 6593 1189*

Martin Muoto  
7420 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7015 0640 0003 6593 1172*

Re: JOSE MARIO CASTRO and BRETH ALEXANDER PONCE v. SOLA  
RENTALS, INC.; MARTIN MUOTO – Amended Notice  
*California Labor Code § 2699 Penalties*

Gentlepersons:

As you know, this office represents JOSE MARIO CASTRO and BRETH ALEXANDER PONCE ("Plaintiffs"), former employees of SOLA RENTALS, INC.; MARTIN MUOTO ("Defendants") and a group of current and former employees employed in the State of California within the last year for violations of California Labor Code §§ 226(a), 226.7, 226.8, 558, 1194, 1194.2, and 1199 and Wage Order 16-2001 (IWC Cal. Code Regs. § Title 8, § 11160.) Plaintiffs sent a letter to the Labor Workforce Development Agency on January 18, 2019. By way of this letter, Plaintiffs are amending their previous notice to amend Defendants Sola Rentals Inc. and Martin Muoto's mailing address. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Mr. Castro and Mr. Ponce and all of their California employees.

LABOR & WORKFORCE DEVELOPMENT AGENCY

*California Labor Code §2699 Penalties*

February 14, 2019

Page 2 of 3

Plaintiffs wish to bring a representative action on behalf of themselves and the State of California as well as on behalf of a group of aggrieved employees defined as: All individuals hired as independent contractors to be laborers, or a similar title, for SOLA RENTALS, INC; MARTIN MUOTO in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present. ("aggrieved employees").

At all relevant times, Muoto was an owner, director, officer, and managing agent of Defendant SOLA RENTALS, INC. Muoto qualifies as a "person acting on behalf of an employer" under Labor Code § 558.1 and is liable for the wages and penalties alleged in this letter.

Labor Code § 226.8 makes it unlawful for any person or employer to willfully misclassify an individual as an independent contractor. Defendants willfully misclassified Plaintiffs and other aggrieved employees as independent contractors though they were, in fact, employees. Defendants' failure to properly classify as employees Plaintiffs and all aggrieved employees was done on a regular and consistent basis.

Defendants failed to pay Plaintiffs and all aggrieved employees proper wages for all hours worked at the proper corresponding rate in violation of Labor Code §§ 510, 1194, 1194.2, and 1199. Every employer is required to pay each employee not less than the applicable minimum wage for all hours worked and at the applicable overtime rate for work performed over 8 hours per day and/or 40 hours per week. Plaintiffs and other aggrieved employees were not paid at the proper corresponding rate for all hours worked, including overtime as a result of Defendants' misclassification of these individuals as independent contractors. At times, Plaintiffs and the aggrieved employees were not compensated at all for hours that they worked.

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Given these allegations, Plaintiffs request that Defendants pay back any wages owed from one

LABOR & WORKFORCE DEVELOPMENT AGENCY

*California Labor Code §2699 Penalties*

February 14, 2019

Page 3 of 3

year prior to the date of this letter to the present, pursuant to Labor Code § 558.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 226(a), 226.7, 226.8, 558, 1194, 1194.2, and 1199 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

\_\_\_\_\_  
Liane Katzenstein Ly

LKL/ct/km

Cc: 1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/207>

Misclassification Employee Classified as Contractor	<input checked="" type="checkbox"/>
Misclassification Nonexempt Classified as Exempt	<input type="checkbox"/>
Child Labor	<input type="checkbox"/>
Specify Ages	<input type="checkbox"/>
Minimum Wage	<input checked="" type="checkbox"/>
Overtime	<input checked="" type="checkbox"/>
Not paid for all hours worked	<input checked="" type="checkbox"/>
Not paid wages due on termination	<input type="checkbox"/>
Other Unpaid Wages	<input type="checkbox"/>
Tips or Gratuities	<input type="checkbox"/>
Payment or Reimbursement of Employee Expenses	<input type="checkbox"/>
Improper Form of Payment Including NSF Checks	<input type="checkbox"/>
Kickbacks	<input type="checkbox"/>
Meal and Rest Breaks	<input checked="" type="checkbox"/>
Sick Leave	<input type="checkbox"/>
Lactation Accommodation (Labor Code 1030-1033)	<input type="checkbox"/>
Not providing required time off, other	<input type="checkbox"/>
Pay Discrimination on basis of sex, (Labor Code 1197:5)	<input type="checkbox"/>
No Wage Statements	<input checked="" type="checkbox"/>
Improper or Incomplete Wage Statements	<input type="checkbox"/>
Other Notice or Posting or Recordkeeping	<input type="checkbox"/>
Public Works (Labor Code 1720 - 1815)	<input type="checkbox"/>
Apprenticeship (Labor Code 3070 - 3098)	<input type="checkbox"/>
Occupational Safety and Health (Labor Code 6300 et seq)	<input type="checkbox"/>
No Workers' Compensation	<input type="checkbox"/>
Licensing, Registration, or Permit	<input type="checkbox"/>
Unfair Immigration Activities	<input type="checkbox"/>
Agricultural Labor Relations	<input type="checkbox"/>
Industrial Homework	<input type="checkbox"/>
Retaliation for Protected Status or Activity (Specify)	<input type="checkbox"/>
Other (Maybe Multiple)	<input type="checkbox"/>

**PAGA Claim Type - Check All that Apply**

Includes one or more listed in Labor Code 2699.5- not curable subject to 2699.3(a) <i>[subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.]</i>	<input checked="" type="checkbox"/>
Includes one or more OSHA violations subject to requirements of 2699.3(b)	<input type="checkbox"/>
Includes one or more violations not listed in Labor Code 2699.5 - curable subject to 2699.3(c) <i>[(6) and (8) of subdivision (a) of Section 226]</i>	<input type="checkbox"/>

EXHIBIT "3"

CASH ONLY IF ALL CheckLock SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPYING



KINGSLEY & KINGSLEY, APC  
COST ACCOUNT  
(818) 990-8300  
16133 VENTURA BLVD, SUITE 1200  
ENCINO, CA 91436-2416

MANUFACTURERS BANK  
16255 VENTURA BLVD  
ENCINO, CA 91436  
16-2807/1222

13832

2/14/2019

PAY TO THE ORDER OF Labor and Work Force Development Agency

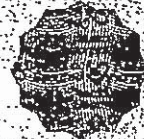
\$: \*\*75.00

Seventy-Five and 00/100 \*\*\*\*\* DOLLARS

PROTECTED AGAINST FRAUD



Department of Industrial Relations  
Accounting Unit  
455 Golden Gate Avenue, 10th Floor  
San Francisco, CA 94102



*[Handwritten Signature]*



MEMO

LWDA Case No: LWDA-CM-666822-19-Sola R

⑈013832⑈ ⑈122226076⑈ 0013169685⑈

Oakland, CA 94612

Sola Rentals, Inc.  
8629 S Vermont Avenue  
Los Angeles, CA 90044.  
*Certified Mailing: 7017 2620 0001 1072 8055*

Sola Rentals, Inc.  
7420 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7015 0640 0003 6593 1189*

Martin Muoto  
7420 S Vermont Avenue  
Los Angeles, CA 90044  
*Certified Mailing: 7015 0640 0003 6593 1172*

Re: JOSE MARIO CASTRO and BRETH ALEXANDER PONCE v. SOLA RENTALS, INC.; MARTIN MUOTO – Amended Notice  
*California Labor Code § 2699 Penalties*

Gentlepersons:

As you know, this office represents JOSE MARIO CASTRO and BRETH ALEXANDER PONCE ("Plaintiffs"), former employees of SOLA RENTALS, INC.; MARTIN MUOTO ("Defendants") and a group of current and former employees employed in the State of California within the last year for violations of California Labor Code §§ 226(a), 226.7, 226.8, 558, 1194, 1194.2, and 1199 and Wage Order 16-2001 (IWC Cal. Code Regs. § Title 8, § 11160.) Plaintiffs sent a letter to the Labor Workforce Development Agency on January 18, 2019. By way of this letter, Plaintiffs are amending their previous notice to amend Defendants Sola Rentals Inc. and Martin Muoto's mailing address. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Mr. Castro and Mr. Ponce and all of their California employees.

EXHIBIT

3





**KINGSLEY & KINGSLEY, APC**  
 COST ACCOUNT  
 (818) 990-8300  
 16133 VENTURA BLVD., SUITE 1200  
 ENCINO, CA 91436-2416

MANUFACTURERS BANK  
 16255 VENTURA BLVD.  
 ENCINO, CA 91436  
 16-2607/1222

13780

1/18/2019

PAY TO THE ORDER OF Labor and Work Force Development Agency

\$ \*\*75.00

Seventy-Five and 00/100\*\*\*\*\* DOLLARS

PROTECTED AGAINST FRAUD



Department of Industrial Relations  
 Accounting Unit  
 455 Golden Gate Avenue, 10th Floor  
 San Francisco, CA 94102



*[Handwritten Signature]*



MEMO

LWDA-PAGA filing fee-Re Castro et al v. Sola

⑈013780⑈ ⑆122226076⑆ 0013169685⑈

Sola Rentals, Inc.  
 7420 S Vermont Avenue  
 Los Angeles, CA 90044  
 Certified Mailing: 7015 0640 0003 6593 0786

Martin Muoto  
 7420 S Vermont Avenue  
 Los Angeles, CA 90044  
 Certified Mailing: 7015 0640 0003 6593 1882

Re: JOSE MARIO CASTRO and BRETH ALEXANDER PONCE v. SOLA RENTALS, INC.; MARTIN MUOTO  
*California Labor Code § 2699 Penalties*

Gentlepersons:

This office represents JOSE MARIO CASTRO and BRETH ALEXANDER PONCE ("Plaintiffs") and a proposed group of current and former employees working for SOLA RENTALS, INC.; MARTIN MUOTO ("Defendants") in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiffs and all of Defendants' aggrieved employees.

Plaintiffs wish to bring a representative action on behalf of themselves and the State of California as well as on behalf of a group of aggrieved employees defined as: All individuals hired as independent contractors to be laborers, or a similar title, for SOLA RENTALS, INC; MARTIN MUOTO in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present. ("aggrieved employees").

At all relevant times, Muoto was an owner, director, officer, and managing agent of Defendant SOLA RENTALS, INC. Muoto qualifies as a "person acting on behalf of an employer" under Labor Code § 558.1 and is liable for the wages and penalties alleged in this letter.

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8 11845 W Olympic Blvd, Ste 1000  
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9 Telephone: (310) 484-5001, Fax: (310) 484-5002

10 Attorneys for Plaintiffs and the Proposed Class  
11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF LOS ANGELES

14 JOSE MARIO CASTRO and BRETH  
ALEXANDER PONCE, as individuals, on  
15 behalf of themselves and proposed class  
16 members,

17 PLAINTIFFS,

18 v.

19 SOLA RENTALS, INC.; MARTIN MUOTO;  
and DOES 1 thru 50, inclusive,

20 DEFENDANTS.  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO. 19STCV02041

[Case Assigned for All Purposes to Hon. Elihu  
M. Berle in Dept. 6]

PLAINTIFFS' INITIAL STATUS  
CONFERENCE STATEMENT

Date: April 16, 2019

Time: 2:00 p.m.

Dept.: SS-6

Trial Date: None Set

Complaint Filed: January 25, 2019

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

APR 05 2019

Sherri R. Carter, Executive Officer/Clerk of Court  
By: Steven Drew, Deputy

1 Plaintiffs<sup>1</sup> submit this Initial Status Conference Statement pursuant to the Court's Minute  
2 Order of March 11, 2019. Plaintiff has served Defendant Sola Rentals, Inc., a second time. The  
3 address listed on the Secretary of State website does not appear to be the correct address. Plaintiff  
4 has obtained a secondary address and served Defendant Sola Rentals, Inc., on March 19, 2019. As  
5 such, Sola Rentals, Inc., has additional time to file a Responsive Pleading.

6 Plaintiff has been unable to serve Defendant Martin Muoto, as he has been evading service.  
7 Plaintiff has retained an investigator to attempt to locate and serve Defendant Martin Muoto.

8 Plaintiff requests that the Court move out the Status Conference until May 2019 to permit  
9 Defendant to file a Responsive Pleading.

#### 10 1. PARTIES AND COUNSEL

11 Named Plaintiffs JOSE MARIO CASTRO and BRETH ALEXANDER PONSE are  
12 represented by:

13 Kingsley & Kingsley, APC  
14 Eric B. Kingsley  
[eric@kingsleykingsley.com](mailto:eric@kingsleykingsley.com)  
15 Liane Katzenstein Ly  
[liane@kingsleykingsley.com](mailto:liane@kingsleykingsley.com)  
16 Ari J. Stiller  
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17 16133 Ventura Boulevard, Suite 1200  
18 Encino, CA 91436  
19 Telephone: (818) 990-8300  
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20 Pouya B. Chami  
21 [pchami@chamilaw.com](mailto:pchami@chamilaw.com)  
22 11845 W Olympic Blvd, Ste 1000  
23 Los Angeles, CA 90064-5066  
Telephone: (310) 484-5001  
Fax: (310) 484-5002

24 Plaintiffs do not believe Defendants SOLA RENTALS, INC. and MARTIN MUOTO  
25 ("Defendants") have retained counsel.

#### 26 2. PROPOSED DATES

27 Plaintiff has served Defendant Sola Rentals, Inc., a second time. The address listed on the

28 <sup>1</sup> As of the date of submission, Plaintiff has not been contacted by any Counsel for Defendants.

1 Secretary of State website does not appear to be the correct address. Plaintiff has obtained a  
2 secondary address and served Defendant Sola Rentals, Inc., on March 19, 2019. As such, Sola  
3 Rentals, Inc., has additional time to file a Responsive Pleading.

4 Plaintiff has been unable to serve Defendant Martin Muoto, as he has been evading service.  
5 Plaintiff has retained an investigator to attempt to locate and serve Defendant Martin Muoto.

6 Plaintiff requests that the Court move out the Status Conference until May 2019 to permit  
7 Defendant to file a Responsive Pleading.

8  
9 Respectfully submitted,

10 DATED: April 4, 2019

KINGSLEY & KINGSLEY, APC

11  
12 By: 

ERIC B. KINGSLEY

LIANE KATZENTSTEIN LY

13 Attorneys for Plaintiffs JOSE MARIO CASTRO and  
14 BRETH ALEXANDER PONCE and all proposed  
15 members of the Class

1 (PROOF OF SERVICE)  
2 [CCP 1013(a)(3)]  
3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
5 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite  
6 1200, Encino, California 91436.

7 On April 4, 2019, I served all interested parties in this action the following documents  
8 described as PLAINTIFF'S INITIAL STATUS CONFERENCE STATEMENT by placing a  
9 true copy thereof enclosed in a sealed envelope addressed as follows:

10 Sola Rentals, Inc.  
11 c/o Agent for Service of Process  
12 Martin Muoto  
13 7420 S. Vermont Avenue  
14 Los Angeles, CA 90044

15 Martin Muoto  
16 7420 S. Vermont Avenue  
17 Los Angeles, CA 90044

18 POUYA B. CHAMI  
19 CHAMI LAW, PC  
20 11845 W Olympic Blvd, Ste 1000  
21 Los Angeles, CA 90064-5066

22 [XX] (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing  
23 correspondence for mailing. Under that practice it would be deposited with U.S. postal  
24 service on that same day with postage fully prepaid at Encino, California in the ordinary  
25 course of business. I am aware that on motion of the party served, service is presumed  
26 invalid if postal cancellation date or postage meter date is more than one day after date of  
27 deposit for mailing in affidavit.

28 [] BY FEDERAL EXPRESS: I am "readily familiar" with the firm's practice of collection  
and processing correspondence for Federal Express mailing. Under that practice, it  
would be deposited in the Federal Express drop-off box located at 16133 Ventura Bl., 1st  
Floor, Encino, CA 91436, on that same day, in the ordinary course of business.

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that  
the above is true and correct.

Executed on April 4, 2019, at Encino, California.

  
Michelle A. Tanzer