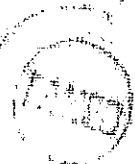


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SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE COLE BUILDING
2485 CIVIC COURT, SUITE 1500
CONCORD, CA 94520
TEL: (510) 891-9800

1 Scott Edward Cole, Esq. (S.B. #160744)
2 Andrew Daniel Weaver, Esq. (S.B. #318935)
3 SCOTT COLE & ASSOCIATES, APC
4 1485 Civic Court, Suite 1500
5 Concord, California 94520
6 Telephone: (510) 891-9800
7 Facsimile: (510) 891-7030
8 Email: scole@scalaw.com
9 Email: aweaver@scalaw.com
10 Web: www.scalaw.com

ENDORSED
FILED
ALAMEDA COUNTY

JUL 23 2018

CLERK OF THE SUPERIOR COURT
By

CURTIYAH GANTER *Deputy*

11 Attorneys for Representative Plaintiff
12 and the Aggrieved Employees

13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **IN AND FOR THE COUNTY OF ALAMEDA**

15 DOMINIC TOVAR, individually, and on
16 behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 ONVIEW INTEGRATED SOLUTIONS,
20 and DOES 1 through 100, inclusive,

21 Defendant.

Case No.

RG18913901

REPRESENTATIVE ACTION

**COMPLAINT FOR DAMAGES, INJUNCTIVE
RELIEF AND RESTITUTION**

[JURY TRIAL DEMANDED]

22 Representative Plaintiff alleges as follows:

23 **INTRODUCTION**

24 1. This is a representative action under California Labor Code § 2699 (The Labor
25 Code Private Attorneys General Act, or "PAGA") seeking penalties for unpaid regular and
26 overtime wages, including unpaid compensation for meal and/or rest period violations, and
27 unreimbursed business expenses under, *inter alia*, California Labor Code §§ 200-204, inclusive,
28 226, 226.7, 226.8, 406, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 2802 and
California Code of Civil Procedure § 1021.5, injunctive and other equitable relief, and reasonable
attorneys' fees and costs. Plaintiff Dominic Tovar ("Representative Plaintiff" or "Plaintiff") brings

1 this action on behalf of himself and all other persons similarly situated (“Aggrieved Employees”)
2 who are or have been employed by defendants OnView Integrated Solutions and/or Does 1 through
3 100, inclusive (collectively “Defendant”) as Patrol Officers and/or Security Guards/Officers
4 within the State of California within the applicable claims period.

5 2. The claims period is designated as the time from May 7, 2017 through trial, based
6 upon the allegation that the violations of California’s wage and hour laws, as described more fully
7 below, have been ongoing throughout that time.

8 3. During the claims period, Defendant has had a consistent policy of (1) permitting,
9 encouraging and/or requiring Plaintiff to work in excess of eight hours per day and/or in excess of
10 forty hours per week without paying him overtime compensation as required by California’s wage
11 and hour laws, (2) unlawfully denying Plaintiff and Aggrieved Employees statutorily-mandated
12 meal and rest periods, (3) willfully failing to provide Plaintiff and Aggrieved Employees with
13 accurate semimonthly itemized wage statements reflecting the total number of hours each worked,
14 the applicable deductions, and the applicable hourly rates in effect during the pay period, and (4)
15 willfully failing to pay compensation in a prompt and timely manner to Plaintiff and those
16 Aggrieved Employees whose employment with Defendant has terminated.

17 4. Defendant operates a security service within California for which Representative
18 Plaintiff worked as a Security Officer. The Representative Plaintiff is informed and believes and,
19 on that basis, alleges that, within the claims period, Defendant employed hundreds of individuals
20 in California in recent years to perform security services, employment positions which did not,
21 and currently do not, meet any known test for exemption from the payment of overtime wages
22 and/or the entitlement to meal or rest periods.

23 5. Despite actual knowledge of these facts and legal mandates, Defendant has and
24 continues to enjoy an advantage over its competition and a resultant disadvantage to its workers
25 by electing not to pay all wages due (regular and overtime wages, missed meal and rest period
26 compensation) and/or all penalties dues (including “waiting time” penalties) to its California-based
27 patrol officers and/or security guards/officers.

28

DEFENDANT

1
2 12. Representative Plaintiff is informed and believes and, based thereon, alleges that,
3 at all times herein relevant, defendants OnView Integrated Solutions and Does 1 through 100 did
4 business within the State of California providing security services.

5 13. Those defendants identified as Does 1 through 100, inclusive, are and were at all
6 relevant times herein-mentioned officers, directors, partners and/or managing agents of some or
7 each of the remaining defendants. Representative Plaintiff is informed and believes and, on that
8 basis, alleges that, at all relevant times herein mentioned, defendants OnView Integrated Solutions,
9 and those identified as Does 1 through 100, inclusive, employed and/or exercised control over the
10 wages, hours and/or working conditions of the Representative Plaintiff and Aggrieved Employees
11 within the State of California.

12 14. The Representative Plaintiff is unaware of the true names and capacities of those
13 defendants sued herein as Does 1 through 100, inclusive and, therefore, sues these defendants by
14 such fictitious names. The Representative Plaintiff will seek leave of court to amend this
15 Complaint when such names are ascertained. The Representative Plaintiff is informed and believes
16 and, on that basis, alleges that each of the fictitiously-named defendants was responsible in some
17 manner for, gave consent to, ratified and/or authorized the conduct herein alleged and that the
18 Representative Plaintiff's and Aggrieved Employees' damages, as herein alleged, were
19 proximately caused thereby.

20 15. Representative Plaintiff is informed and believes and, on that basis, alleges that, at
21 all relevant times herein mentioned, each of the defendants was the agent and/or employee of each
22 of the remaining defendants and, in doing the acts herein alleged, was acting within the course and
23 scope of such agency and/or employment.

COMMON FACTUAL ALLEGATIONS

24
25
26 16. The Representative Plaintiff brings this action on behalf of himself and as a
27 representative action on behalf of all persons similarly-situated and proximately damaged by
28

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CONCORD, CA 94520
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1 Defendant's conduct including, but not necessarily limited to, the following Aggrieved
2 Employees:

3 "All persons employed by Defendant as patrol officers and/or
4 security guards/officers in California at any time on or after May 7,
2017."

5 17. As described herein, for years, Defendant has knowingly failed to adequately
6 compensate those aggrieved employees identified above for all wages earned (including premium
7 wages such as compensation for missed meal and/or rest periods) under the California Labor Code
8 and the applicable IWC Wage Order, thereby enjoying a significant competitive edge over other
9 service providers.

10 18. Defendant has declined to pay these wages, even upon an Aggrieved Employee's
11 termination or resignation from employment, in blatant violation of California Labor Code § 201
12 and/or § 202.

13 19. California Labor Code §§ 201 and 202 require Defendant to pay each severed
14 employee all wages due and owed to the employee immediately upon discharge or within 72 hours
15 of resignation of their positions, in most circumstances. California Labor Code § 203 provides that
16 an employer who willfully fails to timely pay such wages must, as a penalty, continue to pay the
17 subject employee's wages until the back wages are paid in full or an action is commenced and the
18 payment of such penalty shall continue for a period of time up to 30 days.

19 20. Moreover, according to Defendant's policies, Aggrieved Employees were required
20 to incur business expenses related to the operations of Defendant without reimbursement in
21 violation of California Labor Code § 2802.

22 21. Furthermore, despite its knowledge of the Representative Plaintiff's and the
23 Aggrieved Employees' entitlement to compensation for all hours worked, Defendant violated
24 California Labor Code § 1174(d) by failing to provide or require the use, maintenance and/or
25 submission of time records by Aggrieved Employees. Defendant also failed to provide the
26 Representative Plaintiff and Aggrieved Employees with accurate semimonthly itemized
27 statements of the total number of hours worked by each, and all applicable hourly rates in effect,
28 during the pay period, in violation of California Labor Code § 226. In failing to provide the

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1 required documents, Defendant has not only failed to pay its workers the full amount of
2 compensation due but the company has also, until now, effectively shielded itself from its
3 employees' scrutiny by concealing the magnitude and financial impact of its wrongdoing that such
4 documents might otherwise have led workers to discover.

5 22. Representative Plaintiff and all persons similarly situated are entitled to unpaid
6 compensation, yet, to date, have not received such compensation despite many of the same having
7 been terminated by and/or resigned from Defendant's employ. More than 30 days have passed
8 since certain Aggrieved Employees have left Defendant's employ.

9 23. As a consequence of Defendant's willful conduct in not paying former employees
10 compensation for all hours worked in a prompt and timely manner, certain Aggrieved Employees
11 are entitled to up to 30 days wages as a penalty under California Labor Code § 203, together with
12 attorneys' fees and costs.

13 24. As a direct and proximate result of Defendant's unlawful conduct, as set forth
14 herein, Representative Plaintiff and Aggrieved Employees have sustained damages, as described
15 above, including compensation for loss of earnings for hours worked on behalf of Defendant, in
16 an amount to be established at trial. As a further direct and proximate result of Defendant's
17 unlawful conduct, as set forth herein, certain Aggrieved Employees are entitled to recover "waiting
18 time" penalties (pursuant to California Labor Code § 203) and penalties for failure to provide
19 semimonthly statements of hours worked and all applicable hourly rates (pursuant to California
20 Labor Code § 226) in an amount to be established at trial. As a further direct and proximate result
21 of Defendant's unlawful conduct, as set forth herein, Representative Plaintiff and Aggrieved
22 Employees are also entitled to recover costs and attorneys' fees pursuant to California Code of
23 Civil Procedure § 1021.5, among other authorities.

24 25. Representative Plaintiff seeks injunctive relief prohibiting Defendant from
25 engaging in the complained-of illegal labor acts and practices in the future. Unless enjoined,
26 Defendant's unlawful conduct will continue unchecked, while Representative Plaintiff and
27 Aggrieved Employees bear the financial brunt of Defendant's unlawful conduct. As a further direct
28 and proximate result of Defendant's unlawful conduct, as set forth herein, Representative Plaintiff

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1 and the Aggrieved Employees are also entitled to recover costs and attorneys' fees, pursuant to
2 statute.

3 26. Representative Plaintiff has complied with the procedures specified in California
4 Labor Code § 2699.3 necessary to maintain a civil action against Defendant for violation of (and/or
5 recovery under) California Labor Code §§ 200-204, inclusive, 226, 226.7, 512, 558, 1174, 1174.5,
6 1194, 1197 and 2802.

7 **FIRST CAUSE OF ACTION**
8 **PRIVATE ATTORNEYS GENERAL ACT CLAIM**
9 **(California Labor Code §§ 2699)**

10 27. Representative Plaintiff incorporates in this cause of action each and every
11 allegation of the preceding paragraphs with the same force and effect as though fully set forth
12 herein.

13 28. California Labor Code § 2699(a) states:

14 Notwithstanding any other provision of the law, any provision of this code
15 that provides for a civil penalty to be assessed and collected by the Labor
16 and Workforce Development Agency or any of its departments, divisions,
17 commissions, boards, agencies, or employees, for a violation of this code,
18 may, as an alternative, be recovered through a civil action brought by an
19 aggrieved employee on behalf of himself or herself and other current or
20 former employees. . .

21 29. Representative Plaintiff (and each and every other Aggrieved Employee) are
22 "aggrieved employees," as defined by California Labor Code § 2699(c), because they were
23 employed by Defendant and were among the many employees against whom violations of law
24 were committed.

25 30. Representative Plaintiff has met all of the requirements set forth in California Labor
26 Code § 2699.3 necessary to maintain a civil action against Defendant for violations of and/or
27 recovery under California Labor Code §§ 200-204, inclusive, 226, 226.7, 226.8, 510, 512, 558,
28 1174, 1174.5, 2802 and/or 2699.

31. Representative Plaintiff brings this action on behalf of himself and all Aggrieved
Employees alleging violations of the California Labor Code sections cited in the preceding
paragraph.

1 32. As a direct and proximate result of Defendant's unlawful conduct, as set forth
2 herein, Representative Plaintiff and Aggrieved Employees are entitled to recover various penalties
3 as provided by California Labor Code § 2699, in an amount to be established at trial, as well as
4 costs and attorneys' fees, pursuant to statute.

5
6 **RELIEF SOUGHT**

7 **WHEREFORE, the Representative Plaintiff**, on behalf of himself and the proposed
8 Aggrieved Employees, prays for judgment and the following specific relief against defendants,
9 and each of them, jointly and separately, as follows:

10 1. That the Court declare, adjudge, and decree that Defendant willfully violated its
11 legal duties to pay all wages due under the California Labor Code and the applicable California
12 Industrial Welfare Commission Wage Order;

13 2. That the Court declare, adjudge and decree that Defendant violated California
14 Labor Code §§ 406 and 2802(a) by, *inter alia*, willfully failing to reimburse the Representative
15 Plaintiff and Aggrieved Employees for expenses made on behalf of Defendant;

16 3. That the Court declare, adjudge and decree that this action is a proper representative
17 action pursuant to California Labor Code § 2699;

18 4. That the Court make an award of civil penalties for violations of the California
19 Labor Code pursuant to California Labor Code § 2699;

20 5. For all other Orders, findings and determinations identified and sought in this
21 Complaint;

22 6. For reasonable attorneys' fees pursuant to California Code of Civil Procedure §
23 1021.5; and

24 7. For costs of suit and any and all such other relief as the Court deems just and proper.
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THE COLE BUILDING
1485 CIVIC COURT, SUITE 1500
CONCORD, CA 94520
TEL: (510) 891-9800


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JURY DEMAND

Representative Plaintiff, on behalf of himself and the Aggrieved Employees, hereby demands a trial by jury.

Dated: July 23, 2018

SCOTT COLE & ASSOCIATES, APC

By: 

Andrew Weaver, Esq.
Attorneys for Representative Plaintiff
and the Aggrieved Employees