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12 LUIS A. M. AVILA

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF SAN DIEGO**

16 LUIS A. M. AVILA, an individual, for the)
17 real party in interest, the State of)
California,)

18 Plaintiff,)

19 vs.)

20 STAPLES CONTRACT &)
21 COMMERCIAL INC.; STAPLES INC.;)
22 and DOES 1 through 50,)

23 Defendants.)
24)
25)
26)
27)
28)

Case No.: 37-2020-00026210-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF
THE PRIVATE ATTORNEYS
GENERAL ACT (Labor Code Section
2698 et seq.)**

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

07/27/2020 at 01:12:00 PM

Clerk of the Superior Court
By Ines Quirarte, Deputy Clerk

1 Plaintiff LUIS A. M. AVILA ("Plaintiff"), in his capacity as the State of California's
2 designated proxy under the Private Attorney General Act, and on behalf of other current and
3 former California employees ("Represented Employees") alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the Private Attorney General Act ("PAGA"), incorporated in Labor
6 Code sections 2698, 2699 *et seq.*, Plaintiff brings this representative action against
7 Defendants STAPLES CONTRACT & COMMERCIAL INC. ("SC&C") and STAPLES
8 INC. ("STAPLES") and DOES 1 through 50 (all defendants are hereinafter collectively
9 referred to as "Defendants") for wage and hour violations of the California Labor Code and
the applicable Industrial Welfare Commission Wage Order (the "IWC Wage Order").

10 2. Pursuant to Labor Code section 2699, any provision of the Labor Code that
11 provides for a civil penalty to be assessed and collected by the Labor and Workforce
12 Development Agency ("LWDA") or any of its departments, divisions, commissions, boards,
13 agencies or employees for violation of the code may, as an alternative, be recovered through
14 a civil action brought by an aggrieved employee on behalf of himself or herself and other
15 current or former employees pursuant to the procedures specified in Labor Code section
16 2699.3.

17 3. By this action, Plaintiff, who is an aggrieved employee, seeks civil penalties on
18 behalf of himself and other aggrieved employees pursuant to PAGA.

19 4. Plaintiff seeks to recover the PAGA civil penalties through a representative
20 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*
21 (2009) 46 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

22 **JURISDICTION AND VENUE**

23 5. Pursuant to Article VI, section 10 of the California Constitution, subject matter
24 jurisdiction is proper in the Superior Court of California, County of San Diego, State of
California because Plaintiff alleges claims arising under California law.

25 6. This Court has jurisdiction over Defendants because each is believed to be an
26 association, corporation, business entity, or individual that conducts substantial business in
27 the State of California, County of San Diego.

28 7. This Court has jurisdiction over Plaintiff's claims for civil penalties under

1 PAGA.

2 8. Pursuant to California Code of Civil Procedure section 395, venue is proper in
3 the Superior Court of California for the County of San Diego because this is where Plaintiff
4 was employed and where the wrongful misconduct alleged herein occurred.

5 **THE PARTIES**

6 9. The State of California is the real party in interest in a PAGA action. (*Kim v.*
7 *Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose
8 behalf the plaintiff files suit is always the real party in interest.”].)

9 10. Plaintiff is an “aggrieved employee” because he was employed by Defendants
10 and had one or more of the alleged violations committed against him, and therefore is
11 properly suited to act on behalf of the Represented Employees, who are also aggrieved
12 employees as defined by subdivision (c) of Labor Code section 2699.

13 11. Defendants do business in the County of San Diego, State of California.

14 12. The true names and capacities, whether individual, corporate, associate or
15 otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at
16 this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to
17 California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the
18 operative complaint (“Complaint”) to allege the true names and capacities of DOES 1
19 through 50 when their names are ascertained. Plaintiff is informed and believes, and based
20 thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the
21 events and actions alleged herein.

22 13. Plaintiff is informed and believes, and based thereon allege, that at all times,
23 each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego
24 for each of the other defendants and each were co-conspirators with respect to the acts and
25 the wrongful conduct alleged herein so that each is responsible for the acts of the other in
26 connection with the conspiracy and in proximate connection with the other defendants.

27 14. Plaintiff is informed and believes, and based thereon alleges, that each
28 Defendant was acting partly within and partly without the scope and course of their
employment, and was acting with the knowledge, permission, consent, and ratification of
every other Defendant.

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PAGA REPRESENTATIVE ACTION ALLEGATIONS

15. Defendants are the owner and operator of multiple office retail stores throughout California.

16. Plaintiff worked for Defendants during which time he was paid hourly and considered non-exempt.

17. Plaintiff brings this PAGA claim as the state's designated proxy, suing on behalf of all affected employees.

PAGA REPRESENTATIVE ACTION CLAIMS

18. On information and belief, current and former employees of Defendants were subject to wage and hour violations by Defendants, specifically by Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226(a)(1)-(a)(9), 226.3, 246, 432.5, 510, 925, and 2699 et seq.

19. California law provides that an aggrieved employee may file an action against an employer for penalties in connection with violations of the Labor Code and Wage Order provided the aggrieved employee file an action on behalf of himself or herself and other current and former employees.

20. At all material times, Defendants were and/or are Represented Employees' employers or persons acting on behalf of Represented Employees' employer, within the meaning of California Labor Code sections 558 and 558.1.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. As to penalty claims under PAGA, on May 21, 2020, Plaintiff, via counsel, sent the statutorily required notice to the LWDA, indicating that Plaintiff intends to pursue claims against Defendants for violations of the Labor Code.

22. On May 21, 2020, Plaintiff, via counsel, sent a copy of the May 21, 2020 notice to Defendants SC&C and STAPLES.

23. The statutory period expired since Plaintiff sent the May 21, 2020 notice to the LWDA and LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A).

24. Therefore, Plaintiff has exhausted the administrative requirements as required

1 under the PAGA.

2 25. The Causes of Action alleged in this Complaint are appropriately suited for a
3 Representative Action under the PAGA because:

4 a. Their action involves allegations of violations of provisions of the
5 California Labor Code that provide for a civil penalty to be assessed and
6 collected by the LWDA or any departments, divisions, commissions, boards,
7 agencies or employees;

8 b. Plaintiff is an "aggrieved employee" because Plaintiff was employed by
9 the alleged violator and had one or more of the alleged violations committed
10 against them; and

11 c. Plaintiff has satisfied the procedural requirements of Labor Code §
12 2699.3, as set forth above.

13 26. As a result of the acts alleged above, Plaintiff seeks to recover PAGA penalties
14 for violations of the following Labor Code provisions.

15 a. failure to provide accurate sick pay in violation of Labor Code section
16 246;

17 b. failure to provide accurate itemized wage statements in violation of
18 Labor Code sections 226, 246(i) and 226.3;

19 c. failure to pay earned wages in violation of Labor Code section 204;

20 d. failure to pay earned wages in violation of Labor Code sections 201,
21 202, and 203.

22 e. failure to comply with Labor Code section 925; and

23 f. failure to comply with Labor Code section 432.5.

24 **FIRST CAUSE OF ACTION**

25 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**
26 **246 against all Defendants)**

27 27. Plaintiff re-alleges and incorporate by reference the foregoing allegations as
28 though set forth herein.

29 28. Under Labor Code section 246, employers in California must provide
employees with paid sick leave to be paid at a specified rate of pay which must factor in
additional earnings during a given pay period wherein such leave is used.

29. During his employment, Plaintiff earned additional nondiscretionary compensation, such as, for example, incentive pay.

30. Upon information and belief, Defendants failed to provide Plaintiff and Represented Employees with the appropriate rate of pay when paying sick pay, as required under Labor Code section 246.

31. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code section 246.

32. Labor Code section 2699(f) imposes upon Defendants, and each of them, penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

33. Pursuant to Labor Code section 248.5(e), Plaintiff seeks to recover the relief available under Labor Code section 248.5 on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

34. Plaintiff is seeking penalties against Defendants under Labor Code sections 2699(f), 248.5, and any other applicable statute allowing recovery of penalties under PAGA on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

35. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

SECOND CAUSE OF ACTION
(Representative Claim for Penalties Under PAGA for violations of Labor Code section 226(a)(1) against all Defendants)

36. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

37. Labor Code section 226(a)(1) requires that the wage statements accurately state the gross wages earned.

38. Defendants failed to accurately state the proper gross on the wage statements

1 in violation of Labor Code section 226(a)(1). By way of one example, the wage statements
2 failed to include the proper amounts of gross wages because it failed to include the proper
3 amount of sick pay wages. Other examples of such failures exist.

4 39. PAGA imposes upon Defendants, and each of them, penalties for violating
5 Labor Code section 226(a)(1).

6 40. Labor Code section 2699(f) imposes upon Defendants, and each of them,
7 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial
8 violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for
9 subsequent violations for all Labor Code provisions for which a civil penalty is not
specifically provided.

10 41. With respect to violations of Labor Code section 226, Labor Code section
11 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
12 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
13 violation for each employee for each pay period.

14 42. Plaintiff is seeking penalties against Defendants under Labor Code sections
15 2699(f), 226.3, and any other applicable statute allowing recovery of penalties under PAGA
16 on behalf of himself and the Represented Employees as alleged herein in an amount to be
17 shown according to proof.

18 43. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
19 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself
20 and the Represented Employees as alleged herein in an amount to be shown according to
21 proof.

22 **THIRD CAUSE OF ACTION**

23 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section 24 226(a)(5) against all Defendants)**

25 44. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
26 though set forth herein.

27 45. Labor Code section 226(a)(5) requires that the wage statements accurately
28 state the net wages earned.

46. Defendants failed to accurately state the proper net on the wage statements in
violation of Labor Code section 226(a)(5). By way of one example, the wage statements

1 failed to include the proper amounts of gross wages because it failed to include the proper
2 amount of sick pay wages. Other examples of such failures exist.

3 47. PAGA imposes upon Defendants, and each of them, penalties for violating
4 Labor Code section 226(a)(2).

5 48. PAGA imposes upon Defendants, and each of them, penalties for violating
6 Labor Code section 226(a)(5).

7 49. Labor Code section 2699(f) imposes upon Defendants, and each of them,
8 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial
9 violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for
10 subsequent violations for all Labor Code provisions for which a civil penalty is not
specifically provided.

11 50. With respect to violations of Labor Code section 226, Labor Code section
12 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
13 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
14 violation for each employee for each pay period.

15 51. Plaintiff is seeking penalties against Defendants under Labor Code sections
16 2699(f), 226.3, and any other applicable statute allowing recovery of penalties under PAGA
17 on behalf of himself and the Represented Employees as alleged herein in an amount to be
18 shown according to proof.

19 52. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
20 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself
21 and the Represented Employees as alleged herein in an amount to be shown according to
22 proof.

23 **FOURTH CAUSE OF ACTION**
24 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**
25 **226(a)(9) against all Defendants)**

26 53. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
27 though set forth herein.

28 54. Labor Code section 226(a)(9) requires that the employer's wage statements
accurately state all applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the employee.

1 55. Defendants failed to provide the applicable hourly rates in effect during the
2 pay period and the corresponding number of hours worked at each hourly rate by the
3 employee in violation of Labor Code section 226(a)(9).

4 56. By way of one example, the rate for sick pay is not properly listed because it is
5 inaccurate. Other examples of such failures exist.

6 57. All other claims alleged in this complaint have also resulted in a derivative
7 claim of an inaccurate itemized wage statement.

8 58. PAGA imposes upon Defendants, and each of them, penalties for violating
9 Labor Code section 226(a)(9).

10 59. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
11 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial
12 violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for
13 subsequent violations for all Labor Code provisions for which a civil penalty is not
specifically provided.

14 60. With respect to violations of Labor Code section 226, Labor Code section
15 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
16 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
17 violation for each employee for each pay period.

18 61. Plaintiff is seeking civil penalties against Defendants under Labor Code
19 sections 2699(f), 226.3, and any other applicable statute allowing recovery of penalties
20 under PAGA on behalf of himself and the Represented Employees as alleged herein in an
21 amount to be shown according to proof.

22 62. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
23 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself
24 and the Represented Employees as alleged herein in an amount to be shown according to
25 proof.

26 **FIFTH CAUSE OF ACTION**
27 **(Representative Claims for Penalties Under PAGA for violation of Labor Code section**
28 **246(i) against all Defendants)**

 63. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
though set forth herein.

64. Labor Code section 246(i) requires that the employer's wage statements accurately state the amount of paid sick leave available.

65. Defendants failed to accurately state the amount of paid sick leave available in violation of Labor Code section 246(i).

66. By way of one example, the sick rate accrual and usage rates are inaccurate because they reflect “0.0” where leave has in fact accrued and is available for use in violation of section 246(i) which also makes reference to section 226. Other examples of such failures exist.

67. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code section 246(i).

68. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

69. Pursuant to Labor Code section 248.5(e), Plaintiff seeks to recover the relief available under Labor Code section 248.5 on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

70. Plaintiff is seeking penalties against Defendants under Labor Code sections 2699(f), 248.5, and any other applicable statute allowing recovery of penalties under PAGA on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

71. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

SIXTH CAUSE OF ACTION
(Representative Claims for Penalties Under PAGA for violation of Labor Code section 226(a) against all Defendants)

72. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

73. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage statement provided to an employee or a computer-generated record that accurately shows all of the information required under 226(a)(1) through (a)(9).

74. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the wage statements that Defendants kept do not include the proper gross and net wages, total hours worked, all applicable hourly rates and corresponding hours worked.

75. PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a).

76. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

77. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

78. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and any other applicable statute allowing recovery of civil penalties under PAGA on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

79. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION
(Representative Claims for Penalties Under PAGA for Violation of Labor Code section 204 Against all Defendants)

80. Plaintiff re-alleges and incorporates by reference the foregoing allegations as

1 though set forth herein.

2 81. Pursuant to Labor Code section 204, Wages must be paid at least twice
3 monthly on days designated in advance by the employer. Wages earned between the 1st and
4 the 15th of each month must be paid by no later than the 26th of that month. (Labor Code §
5 204.) Wages earned between the 16th and the last day of each month must be paid no later
6 than the 10th day of the following month. (*Id.*)

7 82. Defendants violated Labor Code section 204 because they failed to timely pay
8 Plaintiff and the Represented Employees all earned wages. By way of one example, Plaintiff
9 and Represented Employees were not paid proper wages because Defendants failed to
10 appropriately compensate Plaintiff and the Represented Employees for the use of their leave
11 pursuant to the correct rate mandated in Labor Code section 246. By way of another
12 example, Plaintiff was owed overtime wages, which Defendants failed to compensate
13 Plaintiff at the appropriate regular rate of pay due to its failure to incorporate all incentive
14 compensation earned during a given pay period. This resulted in the underpayment of
15 wages.

16 83. Defendants have failed to pay Plaintiff and Represented Employees all wages
17 due and owed.

18 84. PAGA imposes upon Defendants, and each of them, civil penalties for
19 violating Labor Code section 204.

20 85. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial
22 violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for
23 subsequent violations for all Labor Code provisions for which a civil penalty is not
24 specifically provided.

25 86. Plaintiff is seeking civil penalties against Defendants under Labor Code
26 section 2699(f), and any other applicable statute allowing recovery of penalties under PAGA
27 on behalf of himself and the Represented Employees as alleged herein in an amount to be
28 shown according to proof.

87. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself

1 and the Represented Employees as alleged herein in an amount to be shown according to
2 proof.

3 **EIGHTH CAUSE OF ACTION**
4 **(Representative Claims for Penalties Under PAGA for Violation of Labor Code**
5 **Sections 201, 202, and 203 against all Defendants)**

6 88. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
7 though set forth herein.

8 89. Under Labor Code section 201, if an employee is discharged by his/her
9 employer, the wages earned and unpaid at the time of discharge are due and payable
10 immediately.

11 90. Under Labor Code section 202, if on the other hand, "an employee not having
12 a written contract for a definite period quits his or her employment, his or her wages shall
13 become due and payable not later than 72 hours thereafter, unless the employee has given 72
14 hours previous notice of his or her intention to quit, in which case the employee is entitled to
15 his or her wages at the time of quitting."

16 91. Labor Code section 203 provides, in pertinent part: "If an employer willfully
17 fails to pay, without abatement or reduction, ... any wages of an employee who is discharged
18 or who quits, the wages of the employee shall continue as a penalty from the due date
19 thereof at the same rate until paid or until an action therefore is commenced; but the wages
20 shall not continue for more than 30 days. ..."

21 92. Upon information and belief, Plaintiff and the Represented Employees did not
22 receive all wages upon termination or separation of employment. By way of example,
23 Plaintiff was owed wages for sick leave. To this date, Defendants have not paid Plaintiff
24 those wages. By way of another example, Plaintiff was owed overtime wages, which
25 Defendants failed to compensate Plaintiff at the appropriate regular rate of pay due to its
26 failure to incorporate all incentive compensation earned during a given pay period.

27 93. Defendants have failed to pay Plaintiff and Represented Employees all wages
28 due and owed.

94. PAGA imposes upon Defendants, and each of them, penalties for violating
Labor Code sections 201, 202, and 203.

1 95. Labor Code section 2699(f) imposes upon Defendants, and each of them,
2 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial
3 violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for
4 subsequent violations for all Labor Code provisions for which a civil penalty is not
5 specifically provided.

6 96. Plaintiff is seeking penalties against Defendants under Labor Code section
7 2699(f), and any other applicable statute allowing recovery of civil penalties under PAGA
8 on behalf of himself and the Represented Employees as alleged herein in an amount to be
9 shown according to proof.

10 97. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
11 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of himself
12 and the Represented Employees as alleged herein in an amount to be shown according to
13 proof.

14 **NINTH CAUSE OF ACTION**
15 **(Representative Claims for Penalties Under PAGA for Violation of Labor Code Section**
16 **925 against all Defendants)**

17 98. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
18 though set forth herein.

19 99. Under Labor Code section 925, "An employer shall not require an employee
20 who primarily resides and works in California, as a condition of employment, to agree to a
21 provision that would do either of the following: (1) Require the employee to adjudicate
22 outside of California a claim arising in California. (2) Deprive the employee of the
23 substantive protection of California law with respect to a controversy arising in California.
24 [...]."

25 100. Defendants violated Labor Code section 925 because they require their
26 employees, including Plaintiff and the Represented Employees, to agree, in writing, to a
27 PROPRIETARY INTEREST PROTECTION AGREEMENT ("PIPA") and NON-
28 DISCLOSURE AGREEMENT ("NDA").

 101. PAGA imposes upon Defendants, and each of them, penalties for violating
Labor Code section 925.

102. Labor Code section 2699(f) imposes upon Defendants, and each of them, penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

103. Plaintiff is seeking penalties against Defendants under Labor Code section 2699(f) and any other applicable statute allowing recovery of penalties under PAGA on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

104. Pursuant to PAGA, Labor Code sections 2699(g) and/or 925(c), Plaintiff seeks to recover attorney's fees, costs, filing fees paid to the LWDA and civil penalties on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

TENTH CAUSE OF ACTION
(Representative Claims for Penalties Under PAGA for Violation of Labor Code Section 432.5 against all Defendants)

105. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

106. Under Labor Code section 432.5, “[no] employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

107. Defendants violated Labor Code section 432.5 because they require their employees, including Plaintiff and the Represented Employees, to agree, in writing, to terms and conditions which are violative of Labor Code section 925 as discussed above.

108. Defendants also violated Labor Code section 432.5 because they require their employees, including Plaintiff and the Represented Employees, to agree, in writing, to terms and conditions which are prohibited by law. Specifically, these include, but are not limited to terms and conditions that are contrary to California public policy, such as noncompete agreements, covenants against competition, etc.

109. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code section 432.5.

110. Labor Code section 2699(f) imposes upon Defendants, and each of them, penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

111. Plaintiff is seeking penalties against Defendants under Labor Code section 2699(f) and any other applicable statute allowing recovery of penalties under PAGA on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

112. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover attorney's fees, costs, filing fees paid to the LWDA and civil penalties on behalf of himself and the Represented Employees as alleged herein in an amount to be shown according to proof.

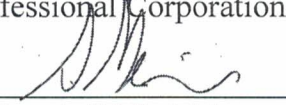
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. An award of civil penalties pursuant to PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to California Labor Code section 2699(g) and/or other applicable law;
3. An award of reasonable attorneys' fees and costs pursuant to the California Labor Code section 925 and/or other applicable law;
4. Post-judgment interest as provided by law; and
5. Such other and further relief that the Court may deem just and proper.

Dated: July 27, 2020

MASHIRI LAW FIRM
A Professional Corporation

By: 
Alex Asil Mashiri
Attorney for Plaintiff
LUIS A. M. AVILA