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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF SANTA CLARA**

15 MAVRICK YOO, individually and on
16 behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 FITNESS ALLIANCE, INC.; FITNESS
20 ALLIANCE, LLC; and DOES 1-20,
21 inclusive,

22 Defendants.

E-FILED
3/19/2020 3:52 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
20CV365258
Reviewed By: R. Walker

Case No. **20CV365258**

**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
(CAL. LAB. CODE §§ 2698, *ET SEQ.*)**

1 Plaintiff Mavrick Yoo, individually and on behalf of other aggrieved employees, hereby
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Mavrick Yoo ("Plaintiff") brings this representative action against
5 Defendants Fitness Alliance, Inc.; Fitness Alliance, LLC; and Does 1 through 10, inclusive
6 (collectively "Defendants"), on behalf of himself individually and all other aggrieved employees
7 employed by Defendants throughout California.

8 2. Defendants maintain and operate a health and fitness facility in California.

9 3. Through this action, Plaintiff is alleging that Defendants have engaged in a systematic
10 pattern of wage and hour violations under the California Labor Code ("Labor Code").

11 4. Plaintiff is informed and believes, and thereon alleges, during the relevant time
12 period, Defendants had a consistent policy of violating state wage and hour laws by, among other
13 things:

- 14 (a) Failing to pay minimum wages for all hours worked;
- 15 (b) Failing to pay overtime wages for all hours worked;
- 16 (c) Failing to provide meal periods or compensation in lieu thereof;
- 17 (d) Failing to authorize or permit paid rest breaks or provide compensation in lieu
18 thereof;
- 19 (e) Willfully failing to provide accurate semi-monthly itemized wage statements;
- 20 (f) Failing to pay all wages due upon separation of employment; and
- 21 (g) Failing to keep accurate records of hours worked.

22 5. Plaintiff brings this representative action seeking monetary relief against Defendants
23 on behalf of himself and other aggrieved employees to recover, among other things, penalties,
24 attorney's fees, costs and expenses pursuant to the Private Attorneys General Act of 2004, Labor
25 Code §§ 2698, *et seq.* ("PAGA").

26 **JURISDICTION AND VENUE**

27 6. The monetary relief sought by Plaintiff exceeds the minimal jurisdictional limits of
28 the Superior Court and will be established according to proof at trial.

7. The Superior Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all cases except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

8. The Superior Court has jurisdiction over all Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

9. Venue is proper in the Superior Court because, upon information and belief, Defendants transact business or have at least one facility in this County.

THE PARTIES

10. Plaintiff Mavrick Yoo is a citizen of California.

11. Plaintiff is informed and believes, and thereon alleges, that Defendants are corporations doing business throughout the State of California, and at all times hereinafter mentioned, an employer as defined in and subject to the California Labor Code and Industrial Welfare Commission (“IWC”) Wage Orders, whose employees are and were engaged throughout this county and the State of California.

12. The true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendants sued herein as Does 1 to 20, inclusive, are currently unknown to Plaintiff, who therefore sues said Defendants by such fictitious names under California Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a Doe is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this First Amended Representative Action Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants are

1 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
2 employers and/or joint employers of Plaintiff and the aggrieved employees.

3 **GENERAL ALLEGATIONS**

4 14. At all relevant times herein, Defendants employed Plaintiff and other persons as non-
5 exempt employees.

6 15. Defendants employed Plaintiff during the relevant time period.

7 16. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
8 herein, Defendants were advised by skilled lawyers, employees and other professionals who were
9 knowledgeable about California wage and hour law, employment and personnel practices and the
10 requirements of California.

11 17. Through this action, Plaintiff alleges that Defendants have engaged in a systematic
12 pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

13 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiffs and aggrieved employees were entitled to receive wages for all
15 time worked (including minimum and overtime wages) and that they were not receiving all wages
16 earned for work that was required to be performed. In violation of the Labor Code and IWC Wage
17 Orders, Plaintiff and aggrieved employees were not paid wages (including minimum and overtime
18 wages) for all hours worked when Defendants required Plaintiff and aggrieved employees to work
19 off-the-clock, and failed to include incentives, such as bonuses and commissions when calculating
20 Plaintiff and aggrieved employees' regular rate of pay for purposes of paying overtime wages, among
21 other things.

22 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and aggrieved employees were entitled to receive all meal periods
24 or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of
25 pay when they did not receive a timely, uninterrupted meal period. In violation of the Labor Code
26 and IWC Wage Orders, Plaintiff and aggrieved employees did not receive all meal periods or
27 payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay
28 when they did not receive a timely, uninterrupted meal period. For example, Currency failed to make

1 available first meal periods within the first five hours worked or a second meal period when Plaintiff
2 and aggrieved employees worked in excess of 10 hours per day.

3 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and aggrieved employees were entitled to receive all rest breaks or
5 payment of one (1) additional hour of pay at Plaintiff and aggrieved employees' regular rate of pay
6 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiff and
7 aggrieved employees did not receive all rest breaks or payment of one (1) additional hour of pay at
8 Plaintiff and aggrieved employees' regular rate of pay when a rest break was missed.

9 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and aggrieved employees were entitled to timely payment of wages
11 during their employment. In violation of the California Labor Code, Plaintiff and aggrieved
12 employees did not receive payment of all wages within permissible time periods.

13 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and aggrieved employees who separated from Defendants were
15 entitled to timely payment of wages upon separation of employment. In violation of the California
16 Labor Code, Plaintiff and these aggrieved employees did not receive payment of all wages including,
17 but not limited to, unpaid minimum and overtime wages, meal period premiums, and rest break
18 premiums within permissible time periods.

19 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and aggrieved employees were entitled to receive complete and
21 accurate wage statements in accordance with California law. In violation of the California Labor
22 Code, Plaintiff and aggrieved employees were not furnished with complete and accurate wage
23 statements showing their total hours worked, number of hours worked at each hourly rate, proper
24 rates of pay, and gross and net wages, among other things.

25 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Defendants were required to keep accurate records of the hours worked by
27 Plaintiff and aggrieved employees. In violation of the California Labor Code, Defendants failed to
28 maintain accurate records of hours worked by Plaintiff and aggrieved employees.

25. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, Defendants knew or should have known that it had a duty to compensate Plaintiff and aggrieved employees, and that Defendants had the financial ability to pay such compensation but willfully, knowingly and intentionally failed to do so, all in order to increase Defendants' profits.

FIRST CAUSE OF ACTION

ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. (“PAGA”)

26. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as though fully set forth herein.

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

28. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which Defendants violated these provisions of the Labor Code.

29. Defendants' conduct with respect to Plaintiff and the other aggrieved employees violates numerous Labor Code sections including, but not limited to, the following:

- (a) Violation of Labor Code §§ 201-204, 210, 510, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198 for failure to timely pay all earned wages (including minimum and overtime wages) owed to Plaintiff and other aggrieved employees during employment and upon separation of employment as herein alleged;
- (b) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages

for missed meal periods as herein alleged;

(c) Violation of Labor Code § 226.7 for failure to permit paid rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;

(d) Violation of Labor Code § 226 and 226.3 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged; and

(e) Violation of Labor Code §§ 1174 and 1174.5 for failure to keep accurate records of hours worked by aggrieved employees as herein alleged.

30. Plaintiff is an “aggrieved employee” because he was employed by the alleged violator and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

31. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under the PAGA.

32. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties for violations of the Labor Code sections cited above.

33. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of all others similarly situated, prays for judgment against Defendants as follows:

1. For civil penalties against Defendants on behalf of all aggrieved employees.

2. For reasonable attorney’s fees and costs of suit to the extent permitted by law, including pursuant to California Labor Code §§ 2699(g) and California Code of Civil Procedure § 1021.5; and

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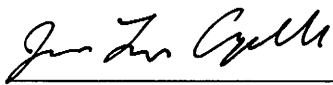
1 3. For such other relief as the Court deems just and proper.

2 Dated: March 18, 2020

AEGIS LAW FIRM, PC

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By: 

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Jessica L. Campbell
Attorneys for Plaintiff

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