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10 **SUPERIOR COURT OF CALIFORNIA**
11 **FOR THE COUNTY OF SACRAMENTO**

12 _____)
13 DAVONA ALFRED, as an aggrieved)
14 employee pursuant to the Private)
15 Attorneys General Act (PAGA),)

16 Plaintiff,)
17)
18)

19 vs.)
20)
21)

22 JAMV, Inc., a California Corporation; and)
23 DOES 1 to 20, inclusive,)
24)
25)
26)
27)
28)

Defendants)
_____)

Case No. *34-2020-00279868*

COMPLAINT FOR DAMAGES:

1. **Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 et seq.**

1 Plaintiff DAVONA ALFRED ("Plaintiff") hereby files this Complaint against Defendant
2 JAMV, Inc., a California; and DOES 1 to 20, inclusive, (hereinafter collectively referred to as
3 "Defendants"). Plaintiff alleges the following:

4 **PARTIES AND JURISDICTION**

5 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
6 2004 ("PAGA"), California Labor Code section 2698, *et seq.* to recover civil penalties and any other
7 available relief on behalf of Plaintiff, the State of California, and other current and former employees
8 who worked for Defendants in California and who suffered at least one violation of the Labor Code
9 as set forth in this complaint, at any time between February 28, 2019 and judgement.

10 2. Plaintiff DAVONA ALFRED is an individual over the age of eighteen (18) and is now
11 and/or at all times mentioned in this Complaint was a resident of the State of California.

12 3. Plaintiff was a non-exempt employee of Defendants from approximately May 21, 2019
13 through January 4, 2020.

14 4. Plaintiff is informed and believes, and thereon alleges, that Defendant JAMV, Inc. is a
15 California Corporation doing business in California. Defendants own and operate several Popeye's
16 Louisiana Chicken restaurants in California.

17 5. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants
18 herein was, at all times relevant to this action, the agent, employee, or joint employer or joint
19 venturer of the remaining defendants and was acting within the course and scope of that relationship.
20 Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants herein
21 gave consent to, ratified and authorized the acts alleged herein to each of the remaining defendants.
22 The true names and capacities of the defendants named herein Does 1 through 20, inclusive, whether
23 individual, corporate, associate, or otherwise are unknown to Plaintiff, who therefore sues such
24 defendants by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff
25 will amend this complaint to show such true names and capacities of Does 1 through 20, inclusive,
26 when they have been determined.

1 6. The Sacramento County Superior Court has jurisdiction in this matter under the
2 California Constitution, Article VI, section 10. The statute under which this action is brought does
3 not specify any other basis for jurisdiction.

4 7. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of
5 the wrongful acts and violations of law asserted herein occurred within Sacramento County.

6 8. On February 28, 2020, Plaintiff filed her Labor Code § 2699.3 Private Attorney General
7 Act ("PAGA") notice with the California Labor & Workforce Development Agency ("LWDA").
8 The LWDA did not respond to Plaintiff's PAGA notice within 65 days, thus deputizing Plaintiff to
9 represent herself, other aggrieved employees, and the California Labor Commissioner for the
10 purpose of collecting civil penalties for violations of the California Labor Code committed by
11 Defendants.

12 **FACTS COMMON TO ALL CAUSES OF ACTION**

13 9. Plaintiff worked for Defendants as a non-exempt employee from approximately May 21,
14 2019 to January 4, 2020.

15 10. Throughout her employment, Defendant did not pay Plaintiff and similarly situated
16 employees all overtime and/or minimum wages earned during their employment. Among other
17 violations, Defendant had a pattern and practice of failing to pay Plaintiff and similarly situated
18 employees for time spent in training and orientation.

19 11. Defendant also did not allow Plaintiff and similarly situated employees to take their
20 statutorily required meal and rest periods. Defendant frequently interrupted the meal and rest
21 periods of Plaintiff and similarly situated employees, requiring them to resume work or requiring
22 them to discuss work-related concerns during their meal and rest periods.

23 12. Additionally, Defendant did not maintain a facially compliant policy regarding the
24 provision of meal and rest periods, and meal and rest periods were not provided in compliance with
25 California law. Defendant failed to provide Plaintiff and other similarly situated employees a 30-
26 minute, duty-free meal period before the end of the fifth hour of work as required under the law.
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1 Defendant also failed to provide rest periods to Plaintiff and similarly situated employees for every 4
2 hours worked or major fraction thereof.

3 13. During the relevant period, Defendant did not provide to Plaintiff and similarly situated
4 employees a compliant Wage Theft Notice to Employees as required under Labor Code section
5 2810.5.

6 14. Plaintiff and similarly situated employees regularly worked over eight (8) hours a day
7 and/or forty (40) hours a week for which overtime was not paid. Defendant also failed to pay
8 minimum wages for all hours worked by Plaintiff and similarly situated employees.

9 15. As a result, Defendant did not provide Plaintiff and similarly situated employees legally
10 compliant wage statements noting, among other things, total hours worked, gross wages earned, the
11 applicable hourly rates in effect during the pay period and the corresponding number of hours
12 worked at each hourly rate.

13 16. Defendant also did not provide Plaintiff and similarly situated aggrieved employees all
14 wages owed upon their termination or within seventy-two (72) hours of their separation from
15 employment.

16 17. Plaintiff is informed and believes that Defendant committed numerous other violations of
17 the California Labor Code, including but not limited to those identified in this letter. Pursuant to
18 *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513
19 (2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code,
20 whether she experienced them personally or not.

21 18. Upon information and belief, all transactions regarding hiring, terminations, promotions,
22 pay increases, etc. relating to Defendants' California employees were submitted to and processed by
23 Defendants' HR department in its corporate headquarters. Additionally, on information and belief,
24 Defendants' corporate records, in particular HR and pay records pertaining to Defendants' California
25 employees, are also maintained at Defendants' corporate headquarters.
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1 19. Upon information and belief, Defendants maintain a central Payroll department at its
2 corporate headquarters which processes payroll for all Defendants' employees, including Plaintiff
3 and similarly situated, aggrieved employees.

4 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
5 have known that its aggrieved employees were entitled to timely payment of all wages earned upon
6 termination of employment. In violation of the California Labor Code, Defendants' aggrieved
7 employees did not receive payment of all wages due upon termination.

8 21. At all times herein set forth, PAGA provides that any provision of law under the Labor
9 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected
10 by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as
11 an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
12 themselves and other current or former employees pursuant to procedures outlined in California
13 Labor Code section 2699.3.

14 22. PAGA defines an aggrieved employee in labor Code section 2699(c) as "any person who
15 was employed by the alleged violator and against whom one or more of the alleged violations was
16 committed."

17 23. Plaintiff and other current and former employees of Defendants are aggrieved employees
18 as defined by the Labor Code in that they are all Defendants' current or former employees and one
19 or more of the alleged violations was committed against them.

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21 **FIRST CAUSE OF ACTION**
22 **CIVIL PENALTIES PURSUANT TO PAGA § 2698 ET SEQ.**
23 **(As to All Defendants)**

24 24. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 23 as though fully
25 set forth herein.

26 25. Plaintiff brings this cause of action as a proxy for the State of California and in this
27 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of the
28 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
violations identified above.

1 26. On or about February 28, 2020, Plaintiff, through counsel, sent written notice to the
2 LWDA regarding Defendant's violations of the California Labor Code, pursuant to Labor Code
3 section 2698, *et seq.*, PAGA. As of the date of the filing of this Complaint, the LWDA has not
4 informed Plaintiff whether the LWDA intends to investigate Plaintiff's PAGA claims. As such,
5 Plaintiff has exhausted her administrative remedies under PAGA and may proceed in this Court.

6 27. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California and
7 all aggrieved employees for all violations of the Labor Code from February 28, 2019, through trial
8 on this matter.

9 28. Defendants' conduct, as alleged herein, violated various sections of the California labor
10 Code, including but not limited to, the following:

11 29. Labor Code sections 201–203 require that all wages, including minimum wages and
12 meal and rest period premiums, be paid to employees upon separation and/or termination of
13 employment. Here, for the reasons stated above, Defendants' employees did not receive all final
14 wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as
15 required by Labor Code sections 201–203. This is in violation of the Labor Code.

16 30. Labor Code section 1174(d) requires employers to keep "payroll records showing the
17 hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in
18 accordance with rules established for this purpose by the commission, but in any case shall be kept
19 on file for not less than three years." Defendants did not keep accurate information regarding all
20 hours worked by Plaintiff and similarly situated employees, largely by failing to accurately record all
21 time worked on their time records. This is in violation of the Labor Code.

22 31. Labor Code section 226 requires employers to furnish to employees with "an accurate
23 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
24 employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the
25 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
26 written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6)
27 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and
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1 only the last four digits of his or her social security number or an employee identification number
2 other than a social security number, (8) the name and address of the legal entity that is the employer .
3 . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number
4 of hours worked at each hourly rate by the employee” For the reasons stated above, Defendants
5 failed to comply with these requirements with respect to Plaintiff and similarly situated employees in
6 violation of the Labor Code.

7 32. Labor Code sections 510 and 1194 require employers to pay employees overtime for any
8 work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any
9 one workweek. Employers must also pay overtime for the first eight (8) hours worked on the
10 seventh day of work in any one workweek. Finally, employers must pay double time for all hours
11 worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8)
12 hours on the seventh day of work in any one workweek. As stated above, Plaintiff and similarly
13 situated employees worked over eight (8) hours per day and forty (40) hours per week and were not
14 paid overtime wages. This is in violation of the Labor Code.

15 33. During the period Plaintiff and similarly situated employees were employed by
16 Defendants they were entitled to be paid at least the State’s minimum wage rate for each hour that
17 they worked. *See, e.g.*, IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001,
18 section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay
19 Plaintiff and similarly situated employees at least minimum wage for all hours worked. Thus,
20 Plaintiff and similarly situated employees were not paid at least the applicable state minimum wage
21 for all hours worked in violation of the Labor Code. This is in violation of the Labor Code.

22 34. Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require
23 employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For
24 the reasons stated above, Plaintiff and similarly situated employees were not authorized and
25 permitted to take legally compliant meal periods pursuant to California law. Defendants also failed
26 to pay any meal period premiums for its failure to provide meal periods. This is in violation of the
27 Labor Code.
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1 35. Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require
2 employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or
3 major fraction thereof worked. For the reasons stated above, Plaintiff and similarly situated
4 employees were not authorized and permitted to take legally compliant rest periods pursuant to
5 California law in violation of the Labor Code. Defendants also failed to pay any rest period
6 premiums for their failure to provide rest periods. This is in violation of the Labor Code.

7 36. Labor Code section 2810.5 requires employers “[a]t the time of hiring” to “provide to
8 each employee a written notice . . . containing the following information: (A) The rate or rates of pay
9 and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or
10 otherwise, including any rates for overtime, as applicable. (B) Allowances, if any, claimed as part of
11 the minimum wage, including meal or lodging allowances. (C) The regular payday designated by the
12 employer in accordance with the requirements of this code. (D) The name of the employer, including
13 any “doing business as” names used by the employer. (E) The physical address of the employer’s
14 main office or principal place of business, and a mailing address, if different. (F) The telephone
15 number of the employer. (G) The name, address, and telephone number of the employer’s workers’
16 compensation insurance carrier. (H) That an employee: may accrue and use sick leave; has a right to
17 request and use accrued paid sick leave; may not be terminated or retaliated against for using or
18 requesting the use of accrued paid sick leave; and has the right to file a complaint against an
19 employer who retaliates. . . . (3) If the employer is a temporary services employer, as defined in
20 Section 201.3, the notice described in paragraph (1) must also include the name, the physical address
21 of the main office, the mailing address if different from the physical address of the main office, and
22 the telephone number of the legal entity for whom the employee will perform work, and any other
23 information the Labor Commissioner deems material and necessary.” Defendants did not provide
24 this notice with all the required information to Plaintiff and similarly situated employees upon hire.

25 37. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal.
26 Rptr. 3d 502, 513 (2018), Plaintiff seeks civil penalties on behalf of the State of California and all
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1 aggrieved employees for all violations of the California Labor Code, whether she experienced them
2 personally or not.

3 **DAMAGES**

4 WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- 5 1. For civil penalties under the California Labor Code according to proof allowed by law;
6 2. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's
7 fees;
8 3. For injunctive relief;
9 4. For an award of prejudgment and post-judgment interest; and
10 5. For an award to Plaintiff of such other and further relief as the Court deems just and
11 proper.

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13 Dated: May 29, 2020

Castle Law: California Employment Counsel

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15 By: 

16 Timothy B. Del Castillo

17 Kent L. Bradbury

18 Attorneys for Plaintiff DAVONA ALFRED
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