

COPY

PETER M. HART (State Bar No. 198691)
LAW OFFICES OF PETER M. HART
12121 Wilshire Blvd., Suite 725
Los Angeles, CA 90025
Telephone: (310) 478-4789
Facsimile: (509) 561-6441

ENDORSED
FILED
ALAMEDA COUNTY

Christina A. Humphrey (State Bar No. 226326)
CHRISTINA HUMPHREY LAW, P.C.
8330 Allison Avenue, Ste. C
La Mesa, CA 91942
(619) 488-6400
christina@humphreyrist.com

MAY 29 2020
CLERK OF THE SUPERIOR COURT
By CKOGEKS Deputy

Attorneys for Plaintiff Justin Inostroza

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

JUSTIN INOSTROZA, as an individual and on
behalf of other aggrieved employees,

Plaintiff,

v.

AMAZON.COM INC., a Delaware corporation;
AMAZON.COM SERVICES LLC, a Delaware
limited liability corporation; AMAZON WEB
SERVICES, INC., a Delaware corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO. **RG200626 41**

**COMPLAINT FOR VIOLATION OF LABOR
CODE §§ 2698 et seq. ("PRIVATE
ATTORNEY GENERAL ACT")**

**FILE BY
FAX**

1 Plaintiff Justin Inostroza (“Plaintiff” or “Mr. Inostroza”) hereby submits this Complaint against
2 Amazon.com Inc., Amazon.com Services LLC, and/or Amazon Web Services, Inc., and DOES 1-100
3 (hereinafter collectively referred to as “Defendants” or “Amazon”) as an aggrieved employee, on
4 behalf of himself and all other current and former aggrieved California employees of Amazon.com
5 Inc., Amazon.com Services LLC, and/or Amazon Web Services, Inc. (collectively, “Amazon”)
6 improperly classified as independent contractors and improperly not treated as employees who sell
7 their own products or products purchased from other companies or websites for and on Amazon,
8 including by and through and on its website, or who resell Amazon.com products for and on Amazon,
9 including by and through and on its website, including by using Fulfillment by Amazon, and other
10 similar order fulfillment services that Amazon provides, and Mr. Inostroza and all other current and
11 former aggrieved employees doing performing this work should have been classified as employees of
12 Amazon, as Mr. Inostroza seeks to represent these groups of aggrieved employees described above in
13 order to seek civil penalties under California Labor Code § 2699.3 for the employees and the State of
14 California.

15 INTRODUCTION

16 1. Plaintiff is informed and believes and based thereon alleges that Defendants
17 Amazon.com Inc., Amazon.com Services LLC, and/or Amazon Web Services, Inc., and the other
18 Defendants sued herein as DOES 1-100, jointly and severally, have acted intentionally and with
19 deliberate indifference and conscious disregard to the rights of all employees in regard to the
20 misclassification of aggrieved employees as independent contractors and the lawful provision of meal
21 periods, rest periods, regular time wages, minimum wages, overtime wages, accurate itemized wage
22 statements, timely payment of wages, reimbursement of work-related expenses, and penalties thereon.

23 2. Plaintiff is informed and believes and thereon alleges that Defendants have
24 engaged in, among other things, a system of willful violations of the California Labor Code and
25 applicable IWC wage orders by creating and maintaining policies, practices and customs that did not
26 comply with the Labor Code and IWC Wage Orders regarding the misclassification of aggrieved
27 employees as independent contractors and the lawful provision of meal periods, rest periods, regular
28 time wages, minimum wages, overtime wages, accurate itemized wage statements, timely payment of

wages, reimbursement of work-related expenses, and penalties thereon.

VENUE

3. Venue is proper because Defendants conduct business throughout the State of California, including in the County of Alameda and Defendants do not designate a principal place or county of business in California.

PARTIES

4. Mr. Inostroza has performed the work of an employee for Amazon (though he has not been paid as employee nor has he been provided the benefits and protections of the California Labor Code during this time) and has done so within the past year when he was selling products in ways described above and below on Amazon.com using Fulfillment by Amazon or other similar Amazon programs and procedures regarding order fulfillment. Mr. Inostroza sold items under his own name, not under a company name, and was paid as an individual directly by Amazon through a 1099. Mr. Inostroza sold items solely through Amazon – he did not have his own website nor did he sell products through any other marketplace or website. Mr. Inostroza often would visit discount retailers, whether at actual stores or on online retailers, and find items there to re-sell on Amazon, including by using the Amazon Seller Central app feature and selling these items using Fulfillment by Amazon and other seller services and supply and distribution and shipping services that Amazon provides. Mr. Inostroza worked about 20-30 hours per week selling items for Amazon and through Fulfillment by Amazon. Mr. Inostroza spent a lot of time locating items to sell for Amazon, as well as on the very time-consuming process of filling out detailed forms and answering questions in order to obtain a mailing label from Amazon. When one of Mr. Inostroza's items are sold using Fulfillment by Amazon, there is no branding to Mr. Inostroza, nor does he receive any contact information for the buyers and these become in essence the customers of Amazon. These facts apply similarly to other aggrieved employees of Amazon who were not treated or paid as employees by Amazon but who were actually employees of Amazon and not paid properly under the California Labor Code.

5. Mr. Inostroza, and the other such aggrieved employees of Amazon, are and were subject to Amazon's policies, procedures, and requirements and controlled by these policies, procedures, and requirements for selling products, including what they could sell, what they could not

1 sell, how they could describe the products, the pricing of the products and the percentage of sales of
2 the products—all these things of which were set and controlled by Amazon. Amazon has benefitted
3 from Mr. Inostroza’s work and employment, and the work of other aggrieved employees and workers,
4 and Mr. Inostroza, and the other aggrieved employees, were required to meet Amazon’s sales tiers and
5 quotas. Mr. Inostroza, and the other aggrieved employees, must follow Amazon’s requirements
6 regarding product type, product description, delivery, packaging, warranties, returns, among other
7 things. Further, Amazon required that Mr. Inostroza and other aggrieved employees store their
8 products at Amazon distribution centers, package their products in Amazon packages, and include
9 Amazon on invoices to the customers as well.

10 6. Plaintiff brings this action on behalf of himself and on behalf of other similarly
11 situated and aggrieved persons who, since one year prior to the submission of notice to the California
12 Labor and Workforce Development Agency (“LWDA”) to the present and continuing forward, on
13 behalf of himself and all other current and former aggrieved California employees of Amazon.com
14 Inc., Amazon.com Services LLC, and/or Amazon Web Services, Inc. improperly classified as
15 independent contractors and improperly not treated as employees who sell their own products or
16 products purchased from other companies or websites for and on Amazon, including by and through
17 and on its website, or who resell Amazon.com products for and on Amazon, including by and through
18 and on its website, including by using Fulfillment by Amazon, and other similar order fulfillment
19 services that Amazon provides, and Mr. Inostroza and all other current and former aggrieved
20 employees doing performing this work should have been classified as employees of Amazon, as Mr.
21 Inostroza seeks to represent these groups of aggrieved employees described above in order to seek
22 civil penalties under California Labor Code § 2699.3 for the employees and the State of California.

23 7. Plaintiff alleges that Defendants failed to abide by the California Labor Code
24 for work performed in California by willfully misclassifying Plaintiff and other aggrieved employees
25 as independent contractors.

26 8. Plaintiff further alleges that Defendants failed to abide by the California Labor
27 Code for work performed in California by failing to pay any and all minimum wages,
28 contractual/assignment wages, and overtime wages by virtue of improperly misclassifying Plaintiff

1 and other aggrieved employees as independent contractors. Further, Amazon required employees to
2 incur necessary business expenses, including but not limited to the use of personal mobile phones,
3 personal computers, internet access, and mileage, in the course of discharging official duties, but then
4 did not reimburse them for all these expenses, thus reducing the employees' wages. Specifically,
5 Amazon did not pay all minimum wages, contractual/assignment wages, and overtime wages as a
6 result of failing to pay for on-duty meal and rest periods, failing to pay for non-compliant meal and
7 rest periods at the required premium rate of pay, failing to pay overtime wages for hours worked more
8 than eight hours per work day and more than forty hours per workweek, and failing to pay wages for
9 other off-the-clock work.

10 9. Plaintiff further alleges that Defendants failed to abide by the California Labor
11 Code for work performed in California by failing to provide legally-compliant meal periods, and
12 failing to pay premium wages for missed, late, shortened, on duty, and on-the-premises meal and rest
13 periods, pursuant to Labor Code §§ 226.7, 512, and the applicable IWC wage order. Violations
14 include, and are not limited to: requiring employees to miss meal periods, take meal periods after the
15 end of their fifth hour of work, and not allowing employees to take full 30 minute, off-duty,
16 uninterrupted meal periods; not paying for on-duty meal periods and rest periods; not paying for non-
17 compliant meal and rest periods at the required premium rate of pay; and by failing to have a policy or
18 practice that pays meal and rest period premium wages in compliance with California law.
19 Specifically, Amazon did not authorize and permit duty-free meal breaks or rest breaks, including
20 meal breaks of at least 30 minutes and rest breaks that comply with the timing set forth in *Brinker*
21 *Restaurant Corp. v. Superior Court*, 53 Cal.4th. 1004 (2012). Amazon did not have policies that they
22 communicated to each worker and employee authorizing and permitting duty-free meal breaks or rest
23 breaks, including meal breaks of at least 30 minutes and rest breaks that comply with the timing set
24 forth in *Brinker*. Amazon failed to provide the aggrieved employees meal breaks and rest breaks in
25 accordance with California law and failed to have policies or procedures for these aggrieved
26 employees regarding their right to meal breaks and rest breaks in compliance with California law.
27 Amazon further did not comply with the obligation to keep accurate records of meal breaks for the
28 workers or their employees.

1 10. Plaintiff further alleges that Defendants failed to abide by the California Labor
2 Code for work performed in California by failing to maintain accurate employment records for
3 aggrieved employees. Specifically, Amazon failed to accurately and correctly record the actual start
4 and end of meal breaks for aggrieved employees, including what time was duty-free or hours worked,
5 failed to accurately and correctly record the end of the workday for each employee, failed to
6 accurately and correctly record all overtime wages owed and paid, including payment of overtime
7 wages at the accurate rate of pay, failed to accurately and correctly record all premium wages owed
8 and paid, and failed to accurately and correctly record all wages earned in the applicable pay period,
9 among other things, causing harm to their employees.

10 11. Plaintiff further alleges that Defendants failed to abide by the California Labor
11 Code for work performed in California by failing to reimburse and indemnify work related expenses
12 and losses of aggrieved employees including but not limited to the use of personal mobile phones,
13 personal computers, internet access, and mileage, in the course of discharging official duties.
14 Specifically, Amazon failed to have policies that reimbursed employees for mobile phones, despite
15 Amazon regularly communicating with employees by calling them on mobile phones, texting them,
16 and emailing them. Amazon failed to have policies that reimbursed employees for home computer
17 use. Amazon failed to have policies for reimbursing employees for work related mileage. Amazon
18 failed to fully reimburse employees for mobile phones, despite Amazon regularly communicating with
19 employees by calling them on mobile phones, texting them, and emailing them. Amazon failed to
20 fully reimburse employees for home computer use. Amazon failed to fully reimburse employees for
21 work related mileage.

22 12. Plaintiff further alleges that Defendants failed to abide by the California Labor
23 Code for work performed in California by failing to provide itemized and accurate wage statements,
24 including by failing to state the proper rates of pay, the amount of wages earned and paid, the hours
25 worked, the overtime hours worked, the rates of pay, proper deductions, pay for reimbursements, and
26 meal and rest period premiums.

27 13. Plaintiff Justin Inostroza was and is a victim of the policies, practices and
28 customs of Defendants complained of above and in this action in ways that have deprived him of the

rights guaranteed to him by California Labor Code §§ 226, 226.3, 226.4, 226.7, 226.8, 227.3, 510, 512, 558, 1174, 1174.5, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197, 1198, 2698-2699, 2802, and the applicable wage order(s) issued by the Industrial Welfare Commission.

14. Plaintiff is informed and believes and based thereon alleges that Defendant Amazon.com Inc. was and is a Delaware corporation with its headquarters located at Seattle, Washington that is registered with the California Secretary of State and does business in the State of California, including in the County of Alameda, and employed Plaintiff and other similarly situated non-exempt employees throughout the State of California as further defined herein.

14. Plaintiff is informed and believes and based thereon alleges that Defendant Amazon.com Services LLC is a Delaware limited liability corporation with its headquarters located at Seattle, Washington that is registered with the California Secretary of State and does business in the State of California, including in the County of Alameda, and employed Plaintiff and other similarly situated non-exempt employees throughout the State of California as further defined herein.

15. Plaintiff is informed and believes and based thereon alleges that Defendant Amazon Web Services, Inc. is a Delaware corporation with its headquarters located at Seattle, Washington that is registered with the California Secretary of State and does business in the State of California, including in the County of Alameda, and employed Plaintiff and other similarly situated non-exempt employees throughout the State of California as further defined herein.

16. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendants and DOES 1 through 100, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

16. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the Defendants sued herein as DOES 1 through 100, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges that each of said fictitious Defendants was responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and the group of

1 similarly situated employees as further defined herein, to be subject to the illegal employment
2 practices, wrongs and injuries complained of herein.

3 17. At all times herein mentioned, each of said Defendants participated in the doing
4 of the acts hereinafter alleged to have been done by the named Defendants; furthermore, the
5 Defendants, and each of them, were the agents, servants and employees of each of the other
6 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
7 within the course and scope of said agency and employment.

8 18. Plaintiff is informed and believes and based thereon alleges that at all times
9 material hereto, each of the Defendants named herein was the joint employer, agent, employer, alter
10 ego and/or joint venturer of, or working in concert with each of the other Co-Defendants and was
11 acting within the course and scope of such agency, employment, joint venture, or concerted activity.
12 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
13 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
14 Defendants.

15 19. At all times herein mentioned, the acts and omissions of various Defendants,
16 and each of them, concurred and contributed to the various acts and omissions of each and all of the
17 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
18 herein mentioned, Defendants, and each of them, ratified each and every act or omission complained
19 of herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts
20 and omissions of each and all of the other Defendants in proximately causing the damages as herein
21 alleged.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE §§ 2698-2699**

24 **(Against All Defendants By Plaintiff)**

25 20. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 19 as
26 though fully set forth herein.

27 ///

1 21. This claim for relief is brought pursuant to Labor Code §§ 2698-2699 which is
2 the California Private Attorney General Act of 2004 (“PAGA”).

3 22. Under PAGA, any aggrieved employee may bring a representative action as a
4 private attorney general on behalf of the general public, including all other aggrieved employees, to
5 recover civil penalties for their employers’ violations of the California Labor Code and IWC Wage
6 Orders. These civil penalties are in addition to any other relief available under the California Labor
7 Code, and must be allocated 75% to the State of California’s LWDA and 25% to the aggrieved
8 workers, pursuant to California Labor Code § 2699.

9 23. Plaintiff brings this action on behalf of himself and on behalf of other similarly
10 situated and aggrieved persons who, since one year prior to the submission of notice to the California
11 LWDA to the present and continuing forward, have been, or currently are employed in California (or
12 doing the work of employees in California even if classified as independent contractors) by
13 Defendants.

14 24. Plaintiff alleges that Defendants failed to abide by the California Labor Code
15 for work performed in California by willfully misclassifying Plaintiff and other aggrieved employees
16 as independent contractors.

17 25. Plaintiff further alleges that Defendants failed to abide by the California Labor
18 Code for work performed in California by failing to pay any and all minimum wages,
19 contractual/assignment wages, and overtime wages by virtue of improperly misclassifying Plaintiff
20 and other aggrieved employees as independent contractors. Further, Amazon required employees to
21 incur necessary business expenses, including but not limited to the use of personal mobile phones,
22 personal computers, internet access, and mileage, in the course of discharging official duties, but then
23 did not reimburse them for all these expenses, thus reducing the employees’ wages. Specifically,
24 Amazon did not pay all minimum wages, contractual/assignment wages, and overtime wages as a
25 result of failing to pay for on-duty meal and rest periods, failing to pay for non-compliant meal and
26 rest periods at the required premium rate of pay, failing to pay overtime wages for hours worked more
27 than eight hours per work day and more than forty hours per workweek, and failing to pay wages for
28

1 other off-the-clock work.

2 26. Plaintiff further alleges that Defendants failed to abide by the California Labor
3 Code for work performed in California by failing to provide legally-compliant meal periods, and
4 failing to pay premium wages for missed, late, shortened, on duty, and on-the-premises meal and rest
5 periods, pursuant to Labor Code §§ 226.7, 512, and the applicable IWC wage order. Violations
6 include, and are not limited to: requiring employees to miss meal periods, take meal periods after the
7 end of their fifth hour of work, and not allowing employees to take full 30 minute, off-duty,
8 uninterrupted meal periods; not paying for on-duty meal periods and rest periods; not paying for non-
9 compliant meal and rest periods at the required premium rate of pay; and by failing to have a policy or
10 practice that pays meal and rest period premium wages in compliance with California law.
11 Specifically, Amazon did not authorize and permit duty-free meal breaks or rest breaks, including
12 meal breaks of at least 30 minutes and rest breaks that comply with the timing set forth in *Brinker*
13 *Restaurant Corp. v. Superior Court*, 53 Cal.4th. 1004 (2012). Amazon did not have policies that they
14 communicated to each worker and employee authorizing and permitting duty-free meal breaks or rest
15 breaks, including meal breaks of at least 30 minutes and rest breaks that comply with the timing set
16 forth in *Brinker*. Amazon failed to provide the aggrieved employees meal breaks and rest breaks in
17 accordance with California law and failed to have policies or procedures for these aggrieved
18 employees regarding their right to meal breaks and rest breaks in compliance with California law.
19 Amazon further did not comply with the obligation to keep accurate records of meal breaks for the
20 workers or their employees.

21 27. Plaintiff further alleges that Defendants failed to abide by the California Labor
22 Code for work performed in California by failing to maintain accurate employment records for
23 aggrieved employees. Specifically, Amazon failed to accurately and correctly record the actual start
24 and end of meal breaks for aggrieved employees, including what time was duty-free or hours worked,
25 failed to accurately and correctly record the end of the workday for each employee, failed to
26 accurately and correctly record all overtime wages owed and paid, including payment of overtime
27 wages at the accurate rate of pay, failed to accurately and correctly record all premium wages owed
28

1 and paid, and failed to accurately and correctly record all wages earned in the applicable pay period,
2 among other things, causing harm to their employees.

3 28. Plaintiff further alleges that Defendants failed to abide by the California Labor
4 Code for work performed in California by failing to reimburse and indemnify work related expenses
5 and losses of aggrieved employees including but not limited to the use of personal mobile phones,
6 personal computers, internet access, and mileage, in the course of discharging official duties.
7 Specifically, Amazon failed to have policies that reimbursed employees for mobile phones, despite
8 Amazon regularly communicating with employees by calling them on mobile phones, texting them,
9 and emailing them. Amazon failed to have policies that reimbursed employees for home computer
10 use. Amazon failed to have policies for reimbursing employees for work related mileage. Amazon
11 failed to fully reimburse employees for mobile phones, despite Amazon regularly communicating with
12 employees by calling them on mobile phones, texting them, and emailing them. Amazon failed to
13 fully reimburse employees for home computer use. Amazon failed to fully reimburse employees for
14 work related mileage.

15 29. Plaintiff further alleges that Defendants failed to abide by the California Labor
16 Code for work performed in California by failing to provide itemized and accurate wage statements,
17 including by failing to state the proper rates of pay, the amount of wages earned and paid, the hours
18 worked, the overtime hours worked, the rates of pay, proper deductions, pay for reimbursements, and
19 meal and rest period premiums.

20 30. Plaintiff Justin Inostroza was and is a victim of the policies, practices and
21 customs of Defendants complained of above and in this action in ways that have deprived him of the
22 rights guaranteed to him by California Labor Code §§ 226, 226.3, 226.4, 226.7, 226.8, 227.3, 510,
23 512, 558, 1174, 1174.5, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197, 1198, 2698-2699, 2802, and the
24 applicable wage order(s) issued by the Industrial Welfare Commission.

25 31. Pursuant to Labor Code § 2699(a), Plaintiff is an aggrieved employee, on
26 behalf of himself and other current or former employees pursuant to the procedures specified in
27 Section 2699.3, seeks recovery of all applicable civil penalties for Defendants' violation of Labor
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Code §§ 226, 226.3, 226.4, 226.7, 226.8, 227.3, 510, 512, 558, 1174, 1174.5, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197, 1198, 2698-2699, and 2802.

32. As an aggrieved employee, Plaintiff seeks to serve as a representative of the general public to enforce and uphold California's wage and hour laws as a private attorney general as expressly permitted by Labor Code §§ 2698, *et seq.*, pursuant to PAGA. Plaintiff has complied with all notice provisions and is an aggrieved employee as required by PAGA to serve as a private attorney general and representative on behalf of the general public, and recover all penalties and damages that otherwise are reserved for the DLSE, the California DIR, or the Labor Commissioner of the State of California. On or about March 17, 2020, Plaintiff gave written notice to Defendants and to the LWDA by certified mail. A true and correct copy of the written Notice dated March 17, 2020 is attached hereto as **Exhibit A** and incorporated by reference into this Complaint.

33. Plaintiff waited in excess of sixty-five (65) calendar days for any notice from the LWDA that it intended to intervene, in accordance with Labor Code § 2699.3(a), and has not received any such notice. Plaintiff also waited in excess of thirty-three (33) days for written notice that Defendants had cured the violations, in accordance with Labor Code § 2699.3(c), and he has not received any such notice. Accordingly, Plaintiff files this Complaint as specifically permitted by Labor Code §§ 2699.3(a)(2)(A) and 2699.3(c)(2)(A).

34. Pursuant to Labor Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and all other current or former aggrieved employees pursuant to the procedures specified in Section 2699.3 seeks recovery of all applicable civil penalties as follows:

a. One hundred dollars (\$100.00) for each aggrieved employee per pay period for each of the initial violations, for each and every violation under Labor Code § 2699(f)(2);

b. Two hundred dollars (\$200.00) for each aggrieved employee per pay period for each of the subsequent violations, for each and every violation under Labor Code § 2699(f)(2);

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1 c. Two hundred and fifty dollars (\$250.00) per employee per violation in
2 an initial citation per Labor Code § 226.3;

3 d. One thousand dollars (\$1,000.00) per employee per violation in a
4 subsequent citation, per Labor Code § 226.3;

5 e. One thousand dollars (\$100.00) per employee per violation in a
6 subsequent citation, per Labor Code § 226.7;

7 d. One thousand dollars (\$200.00) per employee per violation in a
8 subsequent citation, per Labor Code § 226.7;

9 f. Fifty dollars (\$50.00) for each underpaid employee for each pay period
10 for which the employee was underpaid in addition to an amount sufficient to recover
11 underpaid wages, per Labor Code § 558(a)(1);

12 g. One hundred dollars (\$100.00) for each underpaid employee for each
13 pay period for which the employee was underpaid in addition to an amount sufficient to
14 recover underpaid wages, per Labor Code § 558(a)(2);

15 h. One hundred dollars (\$100.00) for each underpaid employee for each
16 pay period for which the employee is underpaid, Labor Code § 1197.1(a)(1); and

17 i. Two hundred and fifty dollars (\$250.00) for each underpaid employee
18 for each pay period for which the employee is underpaid, per Labor Code §
19 1197.1(a)(2).

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, as an aggrieved employee, on behalf of himself and other
22 current or former aggrieved employees pursuant to the procedures specified in Section 2699.3, prays
23 for judgment as follows:

24 1. Upon the First Cause of Action, for the aggrieved employees for civil penalties
25 only pursuant to California Labor Code §§ 2698-2699 as set forth in California Labor Code §§ 226,
26 226.3, 226.4, 226.7, 226.8, 227.3, 510, 512, 558, 1174, 1174.5, 1193.5, 1193.6, 1194, 1194.2, 1194.5,
27 1197, 1198, 2698-2699, and 2802, and for attorney's fees and costs of litigation; and
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2. For such other and further relief the court may deem just and proper.

DATED: May 29, 2020

LAW OFFICES OF PETER M. HART

By: 
Peter M. Hart
Attorneys for Plaintiff Justin Inostroza

Exhibit A

LAW OFFICES OF PETER M. HART

12121 WILSHIRE BLVD., SUITE 725

LOS ANGELES, CA 90025

Tel.: (310) 478 – 5789

Fax: (509) 561 – 6441

March 17, 2020

SENT VIA CERTIFIED MAIL & VIA ELECTRONIC UPLOAD

Electronic Notice

California Labor & Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

Web Address: <http://www.dir.ca.gov/Private-Attorneys-General-Act.html>

Internal Upload: <https://dir.tfaforms.net/128>

Re: ***Justin Inostroza v. Amazon.com Inc.; Amazon.com Services LLC; Amazon Web Services, Inc.***

Notice of PAGA Claims Pursuant to Labor Code § 2699.3

To Whom It May Concern:

Please be advised that this office is counsel to Justin Inostroza (“Mr. Inostroza”) and that all future communications should be directed to this office.

Notice is hereby provided as required by California Labor Code § 2699.3, that Mr. Inostroza, on behalf of himself and all other current and former aggrieved California employees improperly classified as independent contractors and improperly not treated as employees who resell Amazon.com products for Amazon.com or who sell their own products through Amazon using Fulfillment by Amazon, and other similar order fulfillment services that Amazon provides, and should have been classified as employees of Amazon.com Inc., Amazon.com Services LLC, and/or Amazon Web Services, Inc. (collectively, “Amazon”), as Mr. Inostroza seeks to represent these groups of aggrieved employees described above in order to seek civil penalties under California Labor Code § 2699.3 for the employees and the State of California. Mr. Inostroza currently performs the work of an employee for Amazon (though he has not been paid as employee nor has he been provided the benefits and protections of the California Labor Code during this time) and has done so for the past year performed when selling products on Amazon.com using Fulfillment by Amazon or other similar Amazon programs and procedures regarding order fulfillment. Mr. Inostroza, and the other such aggrieved employees of Amazon, are subject to Amazon’s policies, procedures, and requirements and controlled by these policies, procedures, and requirements for selling products. Amazon has benefitted from Mr. Inostroza’s work and employment, and the work of other aggrieved employees and workers, and Mr. Inostroza, and the other aggrieved employees, were

required to meet Amazon's sales tiers and quotas. Mr. Inostroza, and the other aggrieved employees, must follow Amazon's requirements regarding product type, delivery, packaging, warranties, among other things. Further, Amazon required that Mr. Inostroza and other aggrieved employees store their products at Amazon distribution centers, package their products in Amazon packages, and include Amazon on invoices to the customers as well.

Mr. Inostroza alleges that Amazon has violated, and continues to violate, the provisions of the California Labor Code and Wage Orders promulgated by the Industrial Welfare Commission, by improperly misclassifying him and other Amazon employees as independent contractors when he, and the other aggrieved employees like him, are and should be presumed to be employees for the work they are doing under *Dynamex Operations West Inc. v. Superior Court of Los Angeles*, 4 Cal.5th 903 (2018) and California statutory law. Mr. Inostroza also alleges that Amazon has violated, and continues to violate, the provisions of the California Labor Code and Wage Orders promulgated by the Industrial Welfare Commission for other aggrieved employees. The group of aggrieved employees includes all persons who, since one year prior to the date of the submission of this letter to the present and continuing forward, have been, or currently are employed in California (or doing the work of employees in California even if classified as independent contractors) by Amazon.

Amazon is liable for civil penalties under Labor Code §§ 2698-2699 for the following violations for all the aggrieved employees described above:

1. Violated Labor Code § 226.8 by willfully misclassifying Mr. Inostroza and other aggrieved employees as independent contractors.

2. Violated Labor Code §§ 510, 558, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197, and 1198, by failing to pay any and all minimum wages, contractual/assignment wages, and overtime wages by virtue of improperly misclassifying Mr. Inostroza and other aggrieved employees as independent contractors. Further, Amazon required employees to incur necessary business expenses, including but not limited to the use of personal mobile phones, personal computers, internet access, and mileage, in the course of discharging official duties, but then did not reimburse them for all these expenses, thus reducing the employees' wages. Specifically, Amazon did not pay all minimum wages, contractual/assignment wages, and overtime wages as a result of failing to pay for on-duty meal and rest periods, failing to pay for non-compliant meal and rest periods at the required premium rate of pay, failing to pay overtime wages for hours worked more than eight hours per work day and more than forty hours per workweek, and failing to pay wages for other off-the-clock work.

3. Violated Labor Code §§ 226.7, 512, 558, 1194.5 by failing to provide legally-compliant meal periods, and failing to pay premium wages for missed, late, shortened, on duty, and on-the-premises meal and rest periods, pursuant to Labor Code §§ 226.7, 512, and the applicable IWC wage order. Violations include, and are not limited to: requiring employees to miss meal periods, take meal periods after the end of their fifth

hour of work, and not allowing employees to take full 30 minute, off-duty, uninterrupted meal periods; not paying for on-duty meal periods and rest periods; not paying for non-compliant meal and rest periods at the required premium rate of pay; and by failing to have a policy or practice that pays meal and rest period premium wages in compliance with California law. Specifically, Amazon did not authorize and permit duty-free meal breaks or rest breaks, including meal breaks of at least 30 minutes and rest breaks that comply with the timing set forth in *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th. 1004 (2012). Amazon did not have policies that they communicated to each worker and employee authorizing and permitting duty-free meal breaks or rest breaks, including meal breaks of at least 30 minutes and rest breaks that comply with the timing set forth in *Brinker*. Amazon failed to provide the aggrieved employees meal breaks and rest breaks in accordance with California law and failed to have policies or procedures for these aggrieved employees regarding their right to meal breaks and rest breaks in compliance with California law. Amazon further did not comply with the obligation to keep accurate records of meal breaks for the workers or their employees.

4. Violated Labor Code §§ 226, 1174, 1174.5, and 1194.5 by failing to maintain accurate employment records for aggrieved employees. Specifically, Amazon failed to accurately and correctly record the actual start and end of meal breaks for aggrieved employees, including what time was duty-free or hours worked, failed to accurately and correctly record the end of the workday for each employee, failed to accurately and correctly record all overtime wages owed and paid, including payment of overtime wages at the accurate rate of pay, failed to accurately and correctly record all premium wages owed and paid, and failed to accurately and correctly record all wages earned in the applicable pay period, among other things, causing harm to their employees.

5. Violated Labor Code §§ 1194.5, 2802, and 2699 by failing to reimburse and indemnify work related expenses and losses of aggrieved employees including but not limited to the use of personal mobile phones, personal computers, internet access, and mileage, in the course of discharging official duties. Specifically, Amazon failed to have policies that reimbursed employees for mobile phones, despite Amazon regularly communicating with employees by calling them on mobile phones, texting them, and emailing them. Amazon failed to have policies that reimbursed employees for home computer use. Amazon failed to have policies for reimbursing employees for work related mileage. Amazon failed to fully reimburse employees for mobile phones, despite Amazon regularly communicating with employees by calling them on mobile phones, texting them, and emailing them. Amazon failed to fully reimburse employees for home computer use. Amazon failed to fully reimburse employees for work related mileage

6. Violated Labor Code §§ 226, 226.3, 226.4, 227.3, 558, 1174, 1174.5 and 1194.5 by failing to provide itemized and accurate wage statements, including by failing to state the proper rates of pay, the amount of wages earned and paid, the hours worked, the overtime hours worked, the rates of pay, proper deductions, pay for reimbursements, and meal and rest period premiums.

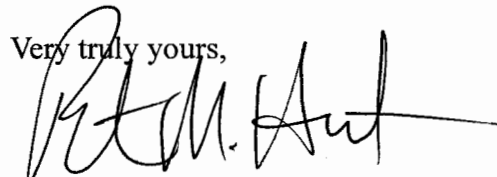
Mr. Inostroza believes Amazon, in addition to the aforementioned Labor Code violations, violated and continues to violate the California Business and Professions Code

§ 17200, *et seq.*, (Unfair Practices Act). Mr. Inostroza further alleges that Amazon's misconduct is ongoing, and that Amazon is subject to civil penalties as provided by various provisions of the Labor Code, including Labor Code sections 226, 226.3, 226.7, 226.8 and 512. We believe that Mr. Inostroza and other similarly situated and aggrieved persons who, since one year prior to the date of the submission of this letter, have been, or currently are employed in California (or doing the work of employees in California even if classified as independent contractors) by Amazon to sell products through Fulfillment by Amazon, are entitled to all statutory and civil penalties, damages, restitution, and injunctive relief allowed by law.

Mr. Inostroza requests that the Labor and Workforce Development Agency not investigate these violations and permit Plaintiff to pursue claims for such penalties under the Private Attorney General's Act ("PAGA"), Labor Code section 2698, *et seq.* However, if it wishes to investigate this matter further, please notify this office. If no notice is provided within sixty-five (65) calendar days of the submission date of this letter, Mr. Inostroza will proceed to seek civil penalties and all other appropriate relief under PAGA in his lawsuit.

Thank you for your time and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter M. Hart", with a long horizontal flourish extending to the right.

Peter M. Hart, Esq.

cc: Sent By Certified Mail To:

Amazon.com Inc.
410 Terry Avenue N
Seattle, WA 98109

Amazon.com Inc.
c/o Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Amazon.com Services LLC
410 Terry Avenue N
Seattle, WA 98109

Amazon.com Services LLC
c/o Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Amazon Web Services, Inc.
410 Terry Avenue N
Seattle, WA 98109

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2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833