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Attorneys for Plaintiff PHILLIP LOPEZ, as an individual and on behalf of all similarly situated employees,

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

PHILLIP LOPEZ,

Plaintiff,

v.

SYNERGY ONE LENDING, INC. dba
MUTUAL OF OMAHA MORTGAGE;
and DOES 1 through 50, inclusive,

Defendant.

Case No.: 37-2020-00018071-CU-OE-CTL

COMPLAINT FOR DAMAGES

1. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq for Failure to Provide Accurate Itemized Wage Statements; and
5. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and

1 Plaintiff PHILLIP LOPEZ (“Plaintiff” or “Mr. Lopez”) complains and alleges as follows:

2 **INTRODUCTION**

3 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
4 who were subjected to one or more of the violations alleged herein (“Aggrieved Employees”) by
5 Defendant SYNERGY ONE LENDING, INC. dba MUTUAL OF OMAHA MORTGAGE
6 (“Defendant” or “SYNERGY.”) The term “RELEVANT TIME PERIOD” or “TIME PERIOD”
7 is defined as one (1) year prior to the filing of the complaint. Plaintiff reserves the right to amend
8 this complaint to reflect a different “Time Period” as further discovery is conducted.

9 2. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
10 against Defendant for its: (1) failure to pay all wages due, including regular and overtime wages;
11 (2) failure to provide meal periods or premium compensation in lieu thereof; (3) failure to provide
12 rest periods or premium compensation in lieu thereof; (4) failure to provide accurate itemized
13 wage statements; and (5) failure to pay wages due upon termination of employment.

14 3. At all relevant times herein, Defendant has consistently maintained and enforced
15 the following unlawful policies and practices against Plaintiff:

- 16 (a) Willfully refusing to pay all hours worked, including both regular and overtime
17 wages;
18 (b) Willfully refusing to permit off-duty meal periods or providing compensation in
19 lieu thereof;
20 (c) Willfully refusing to permit rest periods or providing compensation in lieu
21 thereof;
22 (d) Willfully refusing to furnish accurate itemized wage statements upon payment of
23 wages; and
24 (e) Willfully refusing to pay all wages due upon separation of employment.

25 **JURISDICTION AND VENUE**

26 4. This Court has subject matter jurisdiction over the causes of action alleged in this
27 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
28 excluded from exercising subject matter jurisdiction over said causes of action.

5. Venue is proper in the County of San Diego, because the Defendant maintains its headquarters and transacts business in this county, the obligations and liability arise in this county, and work performed by Plaintiff and Aggrieved Employees that form the subject of this action occurred in this county.

6. The California Superior Court has jurisdiction in the matter, because of the individual claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for Federal Court and this action seeks recovery of civil penalties. Plaintiff is a resident of and/or domiciled in the State of California. Defendant is a corporation doing business in the State of California

7. Further, there is no federal question at issue as the issues herein are based solely on California statutes and law, including the Labor Code, Code of Civil Procedure, Business and Professions Code, and Rules of Court.

THE PARTIES

Plaintiff

8. Mr. Lopez began his employment with Defendant on or around March 25, 2019 as a loan originator. On or around July 10, 2019, Plaintiff was terminated by Defendant. Plaintiff was always paid an hourly wage and was deemed a non-exempt hourly employee by Defendant. Plaintiff is accordingly entitled to compensation for all hours worked, overtime compensation, premium pay, business expense reimbursements, and penalties from Defendant.

Defendant

9. Plaintiff is informed and believes, and based thereon alleges, that Defendant is a Delaware corporation which maintains its headquarters at 3131 Camino Del Rio North #190, San Diego, California 92108, and is and/or was the employer of Plaintiff and similarly situated employees during the Relevant Time Period. Defendant provides mortgage services throughout southern California locations, including San Diego County.

10. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct herein alleged of Defendant sued herein as DOES 1 through 50, inclusive, but on information and belief alleges that said Defendant is legally responsible for the

violations alleged herein. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendant when ascertained.

11. Plaintiff is informed believes, and 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 Defendant are legally attributable to the other Defendants. Furthermore, Defendants operate as a joint venture and/or single business enterprise, integrated enterprise and/or are agents of one another, are alter egos, joint employers and conspire with one another to increase profits by engaging in the conduct described in this complaint.

12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

PAGA ADMINISTRATIVE PREREQUISITE

13. This complaint, Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided by the Private Attorney General Act, Labor Code section 2698 et seq. ("PAGA"), as an aggrieved employee was employed by Defendant and did not receive all wages due, including overtime, was not provided accurate wage statements, and was not able to take lawful meal and rest breaks or receive premium compensation in lieu thereof.

14. Prior to filing this complaint, on March 4, 2020, Plaintiff gave written notice by certified electronic mail to the Labor and Workforce Development Agency ("LWDA") and to Defendant of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violation as required by Labor Code section 2699.3. A true and correct copy of Plaintiff's original letter sent to the LWDA on March 4, 2020, is attached hereto

as “Exhibit A”.

15. More than sixty-five (65) days have passed since Plaintiff submitted his March 4, 2020, notice to the LWDA and Defendant of the specific alleged Labor Code violations and the LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations. Plaintiff further has received no notice of Defendant’s intent to cure any of the alleged violations. Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard to his March 4, 2020, PAGA notice.

FACTUAL ALLEGATIONS

16. This lawsuit arises out of an ongoing wrongful scheme by Defendant to deny its employees the benefits due under California’s wage and hour laws for work performed in California. Defendant wrongfully refused to pay Plaintiff and the Aggrieved Employees regular wages, overtime compensation, and other statutory benefits mandated by California.

17. Throughout the Relevant Time Period, Defendant employed Plaintiff and the Aggrieved Employees in non-exempt positions throughout its California locations. Plaintiff and the Aggrieved Employees were and are paid at an hourly rate and Defendant routinely labeled hours worked as a “draw” against commission earned. Further, Defendant routinely failed to compensate Plaintiff and the Aggrieved Employees at least one and one-half times their regular rate of pay when they worked over eight (8) hours in a day or forty (40) in one week. Accordingly, Defendant failed to pay overtime wages due to these non-exempt employees as required by law.

18. Further, during the Relevant Time Period, Defendant maintained a uniform practice of requiring Plaintiff and the Aggrieved Employees to work off-the-clock in order to complete tasks not directly related to the origination of loans such as trainings, meetings, responding to supervisor and coworkers’ emails, calls, texts. Further, Defendant required Plaintiff and Aggrieved Employees to be accessible to supervisors and clients at all times. Accordingly, Plaintiff and Aggrieved Employees were obligated to work “off-the-clock”. This “off-the-clock” work amounted to hours of uncompensated time Defendant failed to compensate Plaintiff and the Aggrieved Employees the required minimum wage and overtime compensation in violation of the Labor Code and the IWC Wage Orders.

1 19. In addition, Defendant failed to provide Plaintiff and Aggrieved Employees with
2 meal periods in violation of the Labor Code and Industrial Welfare Commission (“IWC”) Wage
3 Orders. Plaintiff and Aggrieved Employees were entitled to timely, uninterrupted, thirty (30)
4 minute meal periods with the first (5) hours worked. However, these breaks were either not
5 provided, were interrupted, or were provided late as a result of Defendant’s policies and practices
6 of requiring Plaintiff and Aggrieved Employees to be accessible at all times to clients and
7 supervisors. Further, Defendant demanded Plaintiff and Aggrieved Employees to prioritized
8 productivity by requiring Plaintiff and Aggrieved Employees to originate a substantial amount of
9 loans per month in lieu of meal or rest breaks.

10 20. Defendant also failed to make reasonably available legally complaint rest periods.
11 Specifically, Plaintiff and the Aggrieved Employees could not take any duty-free breaks lasting
12 ten (10) minutes in violation of the Labor Code and the IWC Wage Orders, due to Defendant’s
13 uniform practice of denying and/or interrupting these breaks delineated above.

14 **FIRST CAUSE OF ACTION**

15 **Violation of PAGA for Recovery of Unpaid Minimum Wage and Overtime**
16 **(Plaintiff Against All Defendants)**

17 21. Plaintiff realleges and incorporates by reference the preceding paragraphs of this
18 complaint as if fully set forth herein.

19 22. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day
20 and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees
21 minimum wage for all hours worked and overtime premium for hours worked in excess of over
22 eight (8) hours per day and/or forty (40) hours per week for work performed for the Defendant.
23 Defendant failed to pay Plaintiff and Aggrieved Employees overtime premium for hours worked
24 in excess of eight (8) hours per day and forty (40) hours per week for work performed for
25 Defendant. Defendant maintained a uniform practice of requiring Plaintiff and the Aggrieved
26 Employees to work off-the-clock performing tasks not directly related to the origination of loans
27 such as trainings, meetings, responding supervisors’ and coworkers’ emails, calls, texts, thereby
28 causing Plaintiff and Aggrieved Employees to work in excess of eight (8) hours per day and/or

forty (40) hours per week. As such, Plaintiff and Aggrieved Employees seek overtime in an amount according to proof, which they earned and accrued one (1) year prior to filing this complaint, according to proof, as part of the civil penalty pursuant to Labor Code section 558, subdivision (a).

23. Defendant willfully violated the Labor Code by failing to pay Plaintiff and Aggrieved Employees all wages, including both minimum wage and overtime. Plaintiff and Aggrieved Employees were denied proper wages as a result of Defendant's policy of having paid Plaintiff and Aggrieved Employees an hourly rate, which is being reduced by commissions owed to them known as a "draw." Plaintiff and Aggrieved Employees work before clocking in and/or after clocking out, failing to compensate Plaintiff and Aggrieved Employees for all hours worked at the proper rate of pay pursuant to Labor Code section 510.

24. Since the LWDA has not indicated that it will be investigating more than sixty-five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission, the LWDA and/or the Department of Labor Standards Enforcement ("DLSE.") This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

25. Plaintiff is informed and believes that Defendant has violated, and continues to violate, provisions of the Labor Code and applicable Wage Orders related to the payment of minimum wages and overtime.

26. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties recovered being reimbursed to the LWDA.

27. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment interest.

SECOND CAUSE OF ACTION

**Violation of PAGA for Failure to Provide Meal Periods or Premium Compensation in
Lieu Therefore
(Plaintiff against All Defendants)**

28. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

29. Labor Code sections 226.7 and 512 and IWC Wage Order 4-2001, Sect. 11 provides that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

30. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not relieving employees from all work duties during meal periods thereby preventing employees from taking legally compliant meal periods.

31. Industrial Welfare Commission (IWC) Wage Order No. 4-2001 (Wage Order 5) section 11(A) states, “Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”

1 32. The burden to prove that a meal or rest period violation has occurred normally
2 rests on the Plaintiff. However, under *Safeway, Inc. v. Superior Court* (238 Cal.App.4th 1138,
3 1159-60 (2015)), where an employer fails to keep accurate records of meal and rest periods, a
4 presumption of meal and rest period violations is created, shifting the burden to the employer to
5 prove that meal and rest period violations did not occur.

6 33. Defendant failed to provide Plaintiff and Aggrieved Employees with timely
7 uninterrupted meal periods as a result of Defendant's policy and practices prioritizing customer
8 service and substantial loan origination requirements. Further, Defendant obligated Plaintiff and
9 Aggrieved Employees to prioritize attending to clients and potential clients disregarding
10 mandatory breaks.

11 34. Defendant denied Plaintiff and Aggrieved Employees duty-free meal periods, as a
12 result, Plaintiff and Aggrieved Employees were often forced to forego meal periods and/or work
13 during their meal periods. In so doing, Defendant has intentionally and improperly denied meal
14 periods to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512
15 and other regulations and statutes.

16 35. Defendant failed to keep accurate records of the meal periods taken by Plaintiff
17 and Aggrieved Employees.

18 36. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
19 than five (5) hours in a workday.

20 37. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have
21 worked more than ten (10) hours in a workday. Plaintiff is informed and believes Defendant failed
22 to provide Plaintiff and Aggrieved Employees a second thirty (30) minute meal period when they
23 worked more than ten (10) hours in a workday.

24 38. At all times relevant hereto, Defendant, failed offer or to schedule non-exempt
25 positions in a manner so as to reasonably provide meal and/or work free meal period as required
26 by Labor Code sections 226.7 and 512.

27 39. Defendant's failure to schedule Plaintiff and Aggrieved Employees in such a way
28 as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees,

1 and/or to provide on-duty meal periods in accordance with the applicable Wage Order, has caused
2 Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be
3 ascertained according to proof at trial.

4 40. Further, Defendant's failure to maintain accurate records of the meal periods taken
5 by Plaintiff and Aggrieved Employees creates a presumption of the violations having occurred
6 and shifts the burden to Defendant to prove they did not occur.

7 41. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
8 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
9 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
10 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
11 by the Labor Code and/or other statutes.

12 42. Since the LWDA has not indicated that it will be investigating and sixty-
13 Five (65) days have passed since Plaintiff mailed his letter, and because Defendant took no
14 corrective action to remedy the allegations set forth above, Plaintiff, as a representative of the
15 people of the State of California, will seek any and all penalties otherwise capable of being
16 collected by the Labor Commission, the LWDA and/or the Department of Labor Standards
17 Enforcement ("DLSE.") This includes each of the following, as set forth in Labor Code section
18 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of
19 the following provisions: 510 and 1194.

20 43. Plaintiff is informed and believes that Defendant has violated and continues to
21 violate provisions of the Labor Code and applicable Wage orders related to the payment of
22 minimum wages, including overtime.

23 44. Plaintiff, as a personal representative of the general public, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
26 otherwise only available to public agency enforcement actions. Funds recovered will be
27 distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties
28 recovered being reimbursed to the LWDA.

45. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

THIRD CAUSE OF ACTION

**Violation of PAGA for Failure to Provide Rest Periods or Premium Compensation in Lieu
Thereof
(Plaintiff against All Defendants)**

46. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

47. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

48. Labor Code section 226.7, subdivision (b), provides that if an employer fails to provide an employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

49. Defendant, and each of them, failed and or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive rest periods and/or work free rest periods. Defendant denied Plaintiff and Aggrieved Employees duty free rest periods by demanding Plaintiff and Aggrieved Employees to be accessible to clients, potential clients, and supervisors at all times. By and through their actions, Defendant intentionally and improperly denied duty free rest periods to the Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

50. Furthermore, Defendant failed to provide Plaintiff and Aggrieved Employees with duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest periods all together in violation of Labor Code section 226.7 and 512.

51. Defendant failed to keep accurate records of the rest periods taken by Plaintiff and Aggrieved Employees.

52. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked more than four (4) hours in a workday.

1 53. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff
2 and Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and
3 Aggrieved Employees have suffered, and will continue to suffer, damages, in amounts which are
4 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
5 ascertained according to proof at trial.

6 54. Plaintiff, by virtue of Plaintiff's employment with Defendant, Defendant's failure
7 to provide Plaintiff and Aggrieved Employees with rest breaks, and Defendant's policy of
8 requiring employees to work through their rest periods without receiving compensation in lieu
9 thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has
10 satisfied all prerequisites to serve as a representative of the general public to enforce California's
11 labor laws, and the penalty provisions identified in Labor Code section 2699.5.

12 55. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
13 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
14 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
15 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
16 by the Labor Code and/or other statutes. Plaintiff, as a representative of the people of the State of
17 California, will seek any and all penalties otherwise capable of being collected by the Labor
18 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
19 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
20 alleged violation of the following provisions: 226.7 and 512.

21 56. Plaintiff, as a personal representative of the general public, will and does seek to
22 recover any and all penalties for each and every violation shown to exist or to have occurred
23 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
24 otherwise only available to public agency enforcement actions. Funds recovered will be
25 distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties
26 recovered being reimbursed to the LWDA.

27 57. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
28 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

1 **FOURTH CAUSE OF ACTION**

2 **Violation of PAGA for Failure to Provide Accurate Itemized Wage Statements**

3 **(Plaintiff against All Defendants)**

4 58. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
5 preceding paragraphs of this complaint as if fully set forth herein.

6 59. Labor Code section 226, subdivision (a), states in pertinent part that, “every
7 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
8 employees, either as a detachable part of the check, draft, or voucher paying the employee’s
9 wages, or separately when wages are paid by personal check or cash, an accurate itemized
10 statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee . .
11 . ; (3) the number of piece-rate units earned . . . ; (4) all deductions . . . ; (5) net wages; (6) the
12 inclusive dates of the period for which the employee is paid; (7) the name of the employee and
13 only the last four digits of his or her social security number or an employee identification number
14 other than a social security number; (8) the name and address of the legal entity that is the
15 employer . . . ; and (9) all applicable hourly rates in effect during the pay period and corresponding
16 number of hours worked at each hourly rate by the employee...” (Lab. Code, § 226.)

17 60. Defendant knowingly and intentionally failed to provide timely and accurate
18 itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code
19 section 226, subdivision (a), by failing to record the accurate number of hours worked, the
20 accurate rate of pay for each hour worked, the accurate amount of premiums wages earned, the
21 accurate net pay, and the accurate gross pay. Such failure caused injury to Plaintiff and Aggrieved
22 Employees.

23 61. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
24 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
25 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
26 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

27 62. Plaintiff, as a personal representative of the general public, will and does seek to
28 recover any and all penalties for each and every violation shown to exist or to have occurred

1 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
2 otherwise only available to public agency enforcement actions. Funds recovered will be
3 distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties
4 recovered being reimbursed to the LWDA.

5 63. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
6 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

7 **FIFTH CAUSE OF ACTION**

8 **Violation of PAGA for Failure to Pay Wages Due Upon Termination of Employment**
9 **(Plaintiff against All Defendants)**

10 64. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
11 preceding paragraphs of this complaint as if fully set forth herein.

12 65. Plaintiff and certain members of the Aggrieved Employees who ended their
13 employment with Defendant during the Relevant Time Period, were entitled to be promptly paid
14 both minimum wage and lawful overtime compensation and other premiums, as required by Labor
15 Code sections 201 and 203.

16 66. Defendant refused and/or failed to promptly compensate Plaintiff and Aggrieved
17 Employees wages owed as a result of Defendant's failure to provide meal and/or rest period
18 premiums as well as compensate Plaintiff and Aggrieved Employees both minimum and overtime
19 compensation owed for work performed for Defendant.

20 67. Plaintiff, by virtue of his employment with Defendant, is an aggrieved employee
21 with standing to bring an action under the PAGA and has suffered injury as to one or more
22 violations committed by Defendant. Plaintiff has satisfied all prerequisites to serve as a
23 representative of the general public to enforce California's labor laws, and the penalty provisions
24 identified in Labor Code section 2699.5.

25 68. Plaintiff, as a representative of the people of the State of California, will seek any
26 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
27 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
28 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:

201-203, 226, 226.7, 510, 512, 1174, and 1194.

69. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties recovered being reimbursed to the LWDA.

70. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and Aggrieved Employees pray for judgment as follows:

1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee as provided by law, including, but not limited to, those civil penalties provided by statute, provided by PAGA and for unpaid wages pursuant to Labor Code section 558;
2. For costs of suit and expenses incurred herein pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis or pursuant to the California Rules of Court;
3. For reasonable attorneys' fees pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis; and
4. For all such other and further relief as the Court may deem just and proper.

Dated: May 12, 2020

MAHONEY LAW GROUP, APC

By:



Kevin Mahoney, Esq.

John A. Young, Esq.

Attorneys for Plaintiff PHILLIP LOPEZ

Exhibit A



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March 4, 2020

VIA ELECTRONIC MAIL

LABOR AND WORKFORCE DEVELOPMENT AGENCY
Attn: PAGA Administrator

VIA U.S. CERTIFIED MAIL #

7019 0700 0001 7572 0239

Return Receipt Requested

Synergy One Lending, Inc.
3131 Camino Del Rio N., Suite 190
San Diego, CA 92108

VIA U.S. CERTIFIED MAIL#

7019 0700 0001 7572 0222

Return Receipt Requested

Synergy One Lending, Inc.
3131 Camino Del Rio, Suite 1460
San Diego, CA 92108

Re: *Phillip Lopez v. Synergy One Lending, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 et. seq.**

To: California Labor and Workforce Development Agency and Synergy One Lending, Inc.

From: Phillip Lopez, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

I. FACTUAL STATEMENT

Please note that the firm, Mahoney Law Group, APC, represents the interests of Phillip Lopez ("Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA"), on behalf of himself and all other aggrieved employees.

II. THEORIES OF LABOR CODE VIOLATIONS AND REMEDIES

Synergy One Lending, Inc. ("Employer") is a mortgage lending company that provides their services throughout California. Employee alleges Employer violated various sections of the Labor Code, including, but not limited, to sections 201, 202, 203, 226, 226.3, 226.7, 510, 512, 1174, 1194, and 1197, by failing to provide Employee and all other aggrieved employees all wages for all hours worked, failure to pay overtime wages, failure to authorize and permit rest periods or premium wages in lieu thereof, failure to provide meal periods or premium wages in lieu thereof, and failure to provide accurate itemized wage statements.

Employer failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employer failed to pay Employee and other aggrieved employees all legally mandated wages, including regular and overtime wages, for all work performed, in violation of California law. Employer paid Employee and other aggrieved employees an hourly rate, however, Employer applied certain hourly wages to reduce commissions owed to Employee and other aggrieved employees known as a "draw". Further, Employer failed to pay Employee and other aggrieved employees for nonproductive hours (time spent on activities not directly to loan origination) such as trainings, meetings, or other activities that did not relate to loan origination. Accordingly, nonproductive hours worked and mandatory paid rest breaks were unpaid. As such, Employee and other aggrieved employees were not compensated for the time worked during these periods. Employer's conduct is in violation of Labor Code sections 294, 510, and 1194, and is actionable under PAGA.

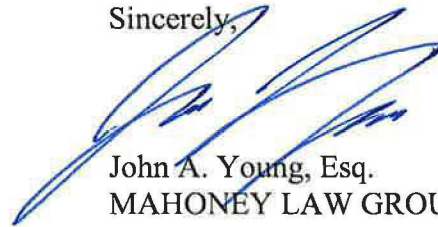
Employer also failed to provide Employee and other aggrieved employees with timely uninterrupted meal and rest periods. Employer had a practice of incentivizing Employee and other aggrieved employees to originate a substantial amount of loans per month. In fact, Employer demanded Employee and other aggrieved employees to be responsive to calls at all times to increase loan prospects to satisfy Employer's loan origination quotas. As a result of Employer's policy and practices, Employee and his co-workers did not receive timely uninterrupted meal and rest periods and were not compensated with premium wages for non-compliant meal and/or rest periods. Employer's conduct is in violation of Labor Code sections 226.7 and 512, and is also actionable under PAGA.

As a result of Employer's failure to pay all wages owed as described herein, Employer further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees with complete and accurate wage statements showing the actual hours worked correct premium wages earned per pay period as well as the total hours worked for the pay period. In addition, Employer failed to include Employee's and other aggrieved employees' hourly rate on their pay statements. Employer's conduct is in violation of Labor Code sections 226 and 1174, and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees.

Employee will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response. Please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John A. Young', is written over the printed name.

John A. Young, Esq.
MAHONEY LAW GROUP, APC