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12 ANA ABUNDIS,  
13 ANA DELGADO

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

16 ANA ABUNDIS, ANA DELGADO, both )  
17 individuals, for the real party in interest, )  
the State of California, )

18 Plaintiffs, )

19 vs. )

20 )  
21 SILK SCREEN SHIRTS, INC.; and DOES )  
22 1 through 50, )

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

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**08/21/2020** at 01:10:27 PM

Clerk of the Superior Court  
By Gregory Homick, Deputy Clerk

Case No.: 37-2020-00029744-CU-OE-NC

**REPRESENTATIVE ACTION**

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

1 Plaintiffs ANA ABUNDIS and ANA DELGADO (“Plaintiffs”), in their capacity as  
2 the State of California’s designated proxy under the Private Attorneys General Act, and on  
3 behalf of other current and former California employees (“Represented Employees”) allege  
4 the following:

### 5 **NATURE OF THE ACTION**

6 1. Pursuant to the Private Attorneys General Act (“PAGA”), incorporated in Labor  
7 Code sections 2698, 2699 *et seq.*, Plaintiffs bring this representative action against  
8 Defendant SILK SCREEN SHIRTS, INC. (“SILK”) and DOES 1 through 50 (all defendants  
9 are hereinafter collectively referred to as “Defendants”) for wage and hour violations of the  
10 California Labor Code and the applicable Industrial Welfare Commission Wage Order (the  
11 “IWC Wage Order”).

12 2. Pursuant to Labor Code section 2699, any provision of the Labor Code that  
13 provides for a civil penalty to be assessed and collected by the Labor and Workforce  
14 Development Agency (“LWDA”) or any of its departments, divisions, commissions, boards,  
15 agencies or employees for violation of the code may, as an alternative, be recovered through  
16 a civil action brought by an aggrieved employee on behalf of himself or herself and other  
17 current or former employees pursuant to the procedures specified in Labor Code section  
18 2699.3.

19 3. By this action, Plaintiffs, who are each an aggrieved employee, seek civil  
20 penalties on behalf of themselves and other aggrieved employees pursuant to PAGA.

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

### 23 **JURISDICTION AND VENUE**

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

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

1           7.     This Court has jurisdiction over Plaintiffs' claims for civil penalties under the  
2     PAGA.

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

6                                 **THE PARTIES**

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

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

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

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

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

28          14.    Plaintiffs are informed and believe, and based thereon alleges, that each  
  Defendant was acting partly within and partly without the scope and course of their  
  employment, and was acting with the knowledge, permission, consent, and ratification of

1 every other Defendant.

2 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

3 15. Defendants are the owners and operators of an apparel manufacturing facility  
4 in the state of California.

5 16. Plaintiffs worked for Defendants during which time they were paid hourly and  
6 considered non-exempt.

7 17. Plaintiffs bring this PAGA claim as the state's designated proxy, suing on  
8 behalf of all affected employees.

9 **PAGA REPRESENTATIVE ACTION CLAIMS**

10 18. On information and belief, current and former employees of Defendants were  
11 subject to wage and hour violations by Defendants, specifically by Defendants' violations of  
12 Labor Code sections 201, 202, 203, 204, 206.5, 226, 226(c), 226(a)(1)-(a)(9), 226.3, 227.3, 246,  
13 432.5, 510, and 2699 et seq.

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

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

21 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

22 21. As to penalty claims under PAGA, on June 18, 2020, Plaintiffs, via counsel,  
23 sent the statutorily required notice to the LWDA, indicating that Plaintiffs intend to pursue  
24 claims against Defendants for violations of the Labor Code.

25 22. On June 18, 2020, Plaintiffs, via counsel, sent a copy of the June 18, 2020  
26 notice to Defendant SILK.

27 23. The statutory period expired since Plaintiffs sent the June 18, 2020 notice to  
28 the LWDA and LWDA did not serve Plaintiffs with a notice of its intent to assume  
jurisdiction over the applicable penalty claims and did not provide notice as set forth in  
Labor Code section 2699.3(a)(2)(A).

1           24.     Therefore, Plaintiffs has exhausted the administrative requirements as required  
2 under the PAGA.

3           25.     Moreover, due to Defendants' delay in producing records in response to  
4 Plaintiffs' records request—as detailed in the Tenth Cause of Action—Plaintiffs are entitled  
5 to seek, and hereby do seek, penalties under PAGA going back one year from the date of  
6 their initial letter requesting such records dated April 21, 2020.

7           26.     The Causes of Action alleged in this Complaint are appropriately suited for a  
8 Representative Action under the PAGA because:

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

13              b.     Plaintiffs are each an “aggrieved employee” because Plaintiffs were  
14 each employed by the alleged violator and had one or more of the alleged  
15 violations committed against them; and

16              c.     Plaintiffs have satisfied the procedural requirements of Labor Code §  
17 2699.3, as set forth above.

18           27.     As a result of the acts alleged above, Plaintiffs seek to recover PAGA penalties  
19 for violations of the following Labor Code provisions.

20               a.     failure to pay overtime in violation of Labor Code section 510;

21               b.     failure to comply with Labor Code section 206.5;

22               c.     failure to comply with Labor Code section 432.5;

23               d.     failure to pay vacation time in violation of Labor Code section 227.3;

24               e.     failure to provide accurate sick pay in violation of Labor Code section  
25 246;

26               f.     failure to provide accurate itemized wage statements in violation of  
27 Labor Code sections 226, 246(i) and 226.3;

28               g.     failure to provide records in violation of Labor Code section 226(c);

              h.     failure to pay earned wages in violation of Labor Code section 204; and

1 i. failure to pay earned wages in violation of Labor Code sections 201,  
2 202, and 203.

3 **FIRST CAUSE OF ACTION**  
4 **(Representative Claims for Penalties under PAGA for Violation of Labor Code**  
5 **Sections 510 against all Defendants)**

6 28. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
7 though set forth herein.

8 29. Eight hours of labor constitutes a day's work, and any work in excess of 8  
9 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8  
10 hours worked on the 7<sup>th</sup> consecutive day of work in a workweek, shall be compensated at the  
11 rate of no less than one and one half times the regular rate of pay for an employee. Any  
12 work in excess of 12 hours in one day shall be compensated at the rate of no less than twice  
13 the regular rate of pay for an employee. (Labor Code § 510 and Applicable IWC Wage  
14 Orders § 3(A).)

15 30. Upon information and belief, during all times relevant to this action,  
16 Defendants violated Labor Code sections 510, 558, 1198, and the Applicable IWC Wage  
17 Order section 3(A).

18 31. By way of example, Plaintiffs both regularly worked in excess of 8 hours in a  
19 single shift, and in excess of 40 hours in a single workweek, yet Defendants failed to  
20 properly compensate such hours worked at the proper overtime rate.

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

26 33. Pursuant to Labor Code section 558, any employer or other person acting on  
27 behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to  
28 558.1 or any provision regulating hours and days of work in any order of the Industrial  
Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section  
558 imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$50)

1 per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$100)  
2 per pay period, per aggrieved employee for subsequent violations.

3 34. Plaintiffs are seeking civil penalties against Defendants under Labor Code  
4 sections 2699(f), 558, the IWC Wage Order, or any other applicable statute allowing  
5 recovery of civil penalties under PAGA on behalf of themselves and the Represented  
6 Employees as alleged herein in an amount to be shown according to proof.

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

11 **SECOND CAUSE OF ACTION**  
12 **(Representative Claims for Penalties Under PAGA for Violation of Labor Code Section**  
13 **206.5 against all Defendants)**

14 36. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
15 though set forth herein.

16 37. Under Labor Code section 206.5, "[a]n employer shall not require the  
17 execution of a release of a claim or right on account of wages due, or to become due, or  
18 made as an advance on wages to be earned, unless payment of those wages has been made.  
19 A release required or executed in violation of the provisions of this section shall be null and  
20 void as between the employer and the employee. Violation of this section by the employer  
21 is a misdemeanor."

22 38. Defendants violated Labor Code section 206.5 because they required their  
23 employees, including Plaintiffs and the Represented Employees, to agree, in writing, to a  
24 "severance and resignation severance agreement" before they would issue them  
25 compensation for the final pay period.

26 39. Defendants violated Labor Code section 206.5 because they required their  
27 employees, including Plaintiffs and the Represented Employees, to agree, in writing, to a  
28 "severance and resignation severance agreement" even though Plaintiffs were due and owed  
outstanding wages, including overtime wages, for work performed.

40. PAGA imposes upon Defendants, and each of them, penalties for violating  
Labor Code section 206.5.

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

42. Plaintiffs are seeking penalties against Defendants under Labor Code section 2699(f), or any other applicable statute allowing recovery of penalties under PAGA on behalf of themselves and the Represented Employees as alleged herein in an amount to be shown according to proof.

43. Pursuant to PAGA, Labor Code sections 2699(g), Plaintiffs seek to recover attorney's fees, costs, filing fees paid to the LWDA and civil penalties on behalf of themselves and the Represented Employees as alleged herein in an amount to be shown according to proof.

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

44. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

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

46. Defendants violated Labor Code section 432.5 because they required their employees, including Plaintiffs and the Represented Employees, to agree, in writing, to terms and conditions which are violative of Labor Code section 206.5.

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

48. Labor Code section 2699(f) imposes upon Defendants, and each of them, penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for

1 subsequent violations for all Labor Code provisions for which a civil penalty is not  
2 specifically provided.

3 49. Plaintiffs are seeking penalties against Defendants under Labor Code section  
4 2699(f), or any other applicable statute allowing recovery of penalties under PAGA on  
5 behalf of themselves and the Represented Employees as alleged herein in an amount to be  
6 shown according to proof.

7 50. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiffs seek to recover  
8 attorney's fees, costs, filing fees paid to the LWDA and civil penalties on behalf of  
9 themselves and the Represented Employees as alleged herein in an amount to be shown  
10 according to proof.

11 **FOURTH CAUSE OF ACTION**  
12 **(Representative Claims for Penalties Under PAGA for violation of Labor Code section**  
13 **227.3 against all Defendants)**

14 51. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
15 though set forth herein.

16 52. Under Labor Code section 227.3, "whenever a contract of employment or  
17 employer policy provides for paid vacations, and an employee is terminated without having  
18 taken off his vested vacation time, all vested vacation shall be paid to her as wages at his  
19 final rate in accordance with such contract of employment or employer policy respecting  
20 eligibility or time served [...]."

21 53. Defendants violated Labor Code section 227.3. Plaintiffs and the Represented  
22 Employees did not receive payment for all vested vacation time upon termination or  
23 separation of employment.

24 54. PAGA imposes upon Defendants, and each of them, penalties for violating  
25 Labor Code section 227.3.

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

56. Plaintiffs are seeking penalties against Defendants under Labor Code section 2699(f), or any other applicable statute allowing recovery of civil penalties under PAGA on behalf of themselves and the Represented Employees as alleged herein in an amount to be shown according to proof.

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

**FIFTH CAUSE OF ACTION**  
**(Representative Claim for Penalties Under PAGA for violations of Labor Code section 246 against all Defendants)**

58. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

59. Under Labor Code section 246, employers in California must provide employees with paid sick leave to be accrued pursuant to state and local mandates.

60. Upon information and belief, Defendants failed to provide Plaintiffs and Represented Employees with the appropriate sick leave entitlements, as required under Labor Code section 246.

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

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

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

64. Plaintiffs are seeking penalties against Defendants under Labor Code sections 2699(f), 248.5, or any other applicable statute allowing recovery of penalties under PAGA on behalf of themselves and the Represented Employees as alleged herein in an amount to

1 be shown according to proof.

2 65. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiffs seek to recover  
3 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of  
4 themselves and the Represented Employees as alleged herein in an amount to be shown  
5 according to proof.

6 **SIXTH CAUSE OF ACTION**  
7 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**  
8 **226(a)(1) against all Defendants)**

9 66. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
10 though set forth herein.

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

13 68. Defendants failed to accurately state the proper gross on the wage statements  
14 in violation of Labor Code section 226(a)(1). By way of one example, the wage statements  
15 failed to include the proper amounts of gross wages because it failed to include the proper  
16 amount of overtime wages. Other examples of such failures exist.

17 69. PAGA imposes upon Defendants, and each of them, penalties for violating  
18 Labor Code section 226(a)(1).

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

24 71. With respect to violations of Labor Code section 226, Labor Code section  
25 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for  
26 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent  
27 violation for each employee for each pay period.

28 72. Plaintiffs are seeking penalties against Defendants under Labor Code sections  
2699(f), 226.3, or any other applicable statute allowing recovery of penalties under PAGA  
on behalf of themselves and the Represented Employees as alleged herein in an amount to  
be shown according to proof.

1           73. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiffs seek to recover  
2 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of  
3 themselves and the Represented Employees as alleged herein in an amount to be shown  
4 according to proof.

5                                   **SEVENTH CAUSE OF ACTION**  
6                   **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**  
7                   **226(a)(5) against all Defendants)**

8           74. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
9 though set forth herein.

10          75. Labor Code section 226(a)(5) requires that the wage statements accurately  
11 state the net wages earned.

12          76. Defendants failed to accurately state the proper net on the wage statements in  
13 violation of Labor Code section 226(a)(5). By way of one example, the wage statements  
14 failed to include the proper amounts of net wages because it failed to include the proper  
15 amount of overtime wages. Other examples of such failures exist.

16          77. PAGA imposes upon Defendants, and each of them, penalties for violating  
17 Labor Code section 226(a)(2).

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

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

25          80. With respect to violations of Labor Code section 226, Labor Code section  
26 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for  
27 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent  
28 violation for each employee for each pay period.

          81. Plaintiffs are seeking penalties against Defendants under Labor Code sections  
2699(f), 226.3, or any other applicable statute allowing recovery of penalties under PAGA

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

3 82. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiffs seek to recover  
4 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of  
5 themselves and the Represented Employees as alleged herein in an amount to be shown  
6 according to proof.

7 **EIGHTH CAUSE OF ACTION**  
8 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**  
9 **226(a)(9) against all Defendants)**

10 83. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
11 though set forth herein.

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

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

18 86. By way of one example, the wage statements failed to include the applicable  
19 hours worked and proper rate of pay for all overtime hours. Other examples of such failures  
20 exist.

21 87. All other claims alleged in this complaint have also resulted in a derivative  
22 claim of an inaccurate itemized wage statement.

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

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

90. With respect to violations of Labor Code section 226, Labor Code section  
226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for

1 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent  
2 violation for each employee for each pay period.

3 91. Plaintiffs are seeking civil penalties against Defendants under Labor Code  
4 sections 2699(f), 226.3, or any other applicable statute allowing recovery of penalties under  
5 PAGA on behalf of themselves and the Represented Employees as alleged herein in an  
6 amount to be shown according to proof.

7 92. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiffs seek to recover  
8 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties on behalf of  
9 themselves and the Represented Employees as alleged herein in an amount to be shown  
10 according to proof.

11 **NINTH CAUSE OF ACTION**  
12 **(Representative Claims for Penalties Under PAGA for violation of Labor Code section**  
13 **226(a) against all Defendants)**

14 93. Plaintiffs re-allege and incorporate by reference the foregoing allegations as  
15 though set forth herein.

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

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

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

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

1           98. With respect to violations of Labor Code section 226, Labor Code section  
2 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for  
3 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent  
4 violation for each employee for each pay period.

5           99. Plaintiffs are seeking civil penalties against Defendants under Labor Code  
6 sections 2699(f), 226.3, or any other applicable statute allowing recovery of civil penalties  
7 under PAGA on behalf of themselves and the Represented Employees as alleged herein in  
8 an amount to be shown according to proof.

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

13                                   **TENTH CAUSE OF ACTION**  
14                   **(Representative Claims for Penalties Under PAGA for violation of Labor Code section**  
15                   **226(c) against all Defendants)**

16           101. Plaintiffs re-allege and incorporate by reference the foregoing allegations  
17 as though set forth herein.

18           102. Labor Code section 226(c) requires that an employer who receives a  
19 written or oral request to inspect or receive a copy of records pursuant to subdivision (b)  
20 pertaining to a current or former employee shall comply with the request as soon as  
21 practicable, but no later than 21 calendar days from the date of the request.

22           103. Plaintiffs, through counsel, sent a letter dated April 21, 2020, to  
23 Defendants, requesting Plaintiffs' payroll records pursuant to subdivisions (b) and (c) of  
24 Labor Code section 226. Defendants failed to provide Plaintiffs with their payroll records  
25 upon request within the time allotted by law.

26           104. Plaintiffs, through counsel, sent a second letter, via certified mail, dated  
27 May 30, 2020, to Defendants, requesting Plaintiffs' payroll records be provided within 10  
28 days, which also made reference to the first letter dated April 21, 2020. Defendants again  
failed to provide Plaintiffs with their payroll records within the time allotted by law.

          105. PAGA imposes upon Defendants, and each of them, penalties for violating  
Labor Code section 226(c).

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

6           107.       Pursuant to Labor Code section 226(f), Plaintiffs seek to recover the relief  
7 available on behalf of themselves and the Represented Employees as alleged herein in an  
8 amount to be shown according to proof.

9           108.       Plaintiffs are seeking penalties against Defendants under Labor Code  
10 sections 2699(f), 226, or any other applicable statute allowing recovery of penalties under  
11 PAGA on behalf of themselves and the Represented Employees as alleged herein in an  
12 amount to be shown according to proof.

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

17                               **ELEVENTH CAUSE OF ACTION**  
18                               **(Representative Claims for Penalties Under PAGA for Violation of Labor Code section**  
19                               **204 Against all Defendants)**

20           110.       Plaintiffs re-allege and incorporate by reference the foregoing allegations  
21 as though set forth herein.

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

27           112.       Defendants violated Labor Code section 204 because they failed to timely  
28 pay Plaintiffs and the Represented Employees all earned wages. By way of one example,  
Plaintiffs and Represented Employees were owed overtime wages, which Defendants failed  
to pay. This resulted in an underpayment of wages due and owed.

113. Defendants have failed to pay Plaintiffs and Represented Employees all wages due and owed.

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

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

116. Plaintiffs are seeking civil penalties against Defendants under Labor Code section 2699(f), or any other applicable statute allowing recovery of penalties under PAGA on behalf of themselves and the Represented Employees as alleged herein in an amount to be shown according to proof.

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

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

118. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

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

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

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

122. Upon information and belief, Plaintiffs and the Represented Employees did not receive all wages upon termination or separation of employment. By way of one example, Plaintiffs and Represented Employees were owed overtime wages, which Defendants failed to pay. This resulted in an underpayment of wages due and owed upon separation. To this date, Defendants have not paid Plaintiffs all wages due and owed.

123. Defendants have failed to pay Plaintiffs and Represented Employees all wages due and owed.

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

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

126. Plaintiffs are seeking penalties against Defendants under Labor Code section 2699(f), or any other applicable statute allowing recovery of civil penalties under PAGA on behalf of themselves and the Represented Employees as alleged herein in an amount to be shown according to proof.

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

## **PRAYER FOR RELIEF**

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

1. An award of civil penalties pursuant to PAGA and/or other applicable laws;

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

Dated: August 20, 2020

**MASHIRI LAW FIRM**  
A Professional Corporation

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