

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Monica Bachner

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kane.moon@moonyanglaw.com
E-mail: allen.feghali@moonyanglaw.com

Attorneys for Plaintiff, Isabel Ramos

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ISABEL RAMOS, on behalf of the State of
California and other aggrieved persons,

Plaintiff,

vs.

AT&T MOBILITY WIRELESS OPERATIONS
HOLDINGS, INC., a Delaware corporation;
AT&T MOBILITY SERVICES, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants

Case No.:

**PAGA REPRESENTATIVE ACTION
COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
Code § 2699, et seq.]

DEMAND FOR JURY TRIAL

1 Plaintiff Isabel Ramos (“Plaintiff”), based upon facts that either have evidentiary support
2 or are likely to have evidentiary support after a reasonable opportunity for further investigation
3 and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants AT&T Mobility Wireless
6 Operations Holdings, LLC, AT&T Mobility Services, LLC, Does 1 through 10 (AT&T Mobility
7 Wireless Operations Holdings, LLC, AT&T Mobility Services, LLC, and Does 1 through 10 are
8 collectively referred to as “Defendants”) for civil penalties under the Private Attorneys General
9 Act of 2004, California Labor Code §§ 2698 *et seq.* (“PAGA”) stemming from Defendants’
10 failure to pay for all hours worked (including minimum wages, straight time wages, and overtime
11 wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to
12 maintain accurate records of hours worked and meal periods, failure to timely pay all wages to
13 terminated employees, and failure to furnish accurate wage statements.

14 2. For over 50 years, California’s courts and legislature have recognized that this
15 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
16 Wages are not ordinary debts. Because of the economic position of the average worker and his
17 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so
18 that employees are promptly paid the minimum/overtime wages that the Legislature has required
19 for employees. So fundamental are California’s wage-and-hour laws that the Legislature has
20 criminalized certain types of violations. In extending extra protection to deter violations of these
21 underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution or
22 other damages other than civil penalties—California has enacted the PAGA to permit an
23 individual to bring an action on behalf of herself and on behalf of others for PAGA penalties
24 only, which is the precise and sole nature of this action.

25 3. All California employees during the relevant statutes of limitations who are or
26 were harmed by Defendant’s illegal practices are “Aggrieved Employees.”

27 4. Plaintiff brings this action against Defendants seeking only to recover penalties for
28 herself, on behalf of all Aggrieved Employees that worked for Defendants, and on behalf of the

1 State of California. Plaintiff does not seek to recover anything other than penalties as permitted
2 by California Labor Code Section 2699 at this time. To the extent that statutory violations are
3 mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages
4 for those violations, but simply penalties as permitted by California Labor Code Section 2699,
5 declaratory relief, and injunctive relief for herself and all aggrieved employees as permitted by
6 the PAGA.

7 5. Defendants own/owned and operate/operated an industry, business, and
8 establishment within the State of California, including Los Angeles County. As such, and based
9 upon all the facts and circumstances incident to Defendants' business in California, Defendants
10 are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare
11 Commission ("IWC"), and the California Business & Professions Code.

12 6. Despite these requirements, throughout the statutory period Defendants
13 maintained a systematic, company-wide policy and practice of:

- 14 (a) Failing to pay employees for all hours worked, including all minimum
15 wages, straight time wages, and overtime wages in compliance with the
16 California Labor Code and IWC Wage Orders;
 - 17 (b) Failing to provide employees with timely and duty-free meal periods in
18 compliance with the California Labor Code and IWC Wage Orders, failing
19 to maintain accurate records of all meal periods taken or missed, and
20 failing to pay an additional hour's pay for each workday a meal period
21 violation occurred;
 - 22 (c) Failing to authorize and permit employees to take timely and duty-free rest
23 periods in compliance with the California Labor Code and IWC Wage
24 Orders, and failing to pay an additional hour's pay for each workday a rest
25 period violation occurred;
 - 26 (d) Failing to maintain accurate records of the hours employees worked;
- 27
28

- 1 (e) Willfully failing to pay employees all meal period, rest period, minimum
2 wages, straight time wages, and overtime wages due within the time period
3 specified by California law when employment terminates; and
4 (f) Failing to provide employees with accurate, itemized wage statements
5 containing all the information required by the California Labor Code and
6 IWC Wage Orders.

7 7. On information and belief, Defendants, and each of them were on actual and
8 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
9 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
10 willful and deliberate.

11 8. At all relevant times, Defendants were and are legally responsible for all of the
12 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
13 foregoing paragraphs as the employer of Plaintiff and the Aggrieved Employees. Further,
14 Defendants are responsible for each of the unlawful acts or omissions complained of herein under
15 the doctrine of "respondeat superior".

16 **THE PARTIES**

17 **A. Plaintiff**

18 9. Plaintiff Isabel Rmaos is a California resident that worked for Defendants in Los
19 Angeles County, California from approximately 2015 to September 24, 2018. During the
20 statutory time period, Plaintiff was employed by Defendants as a sales associate, and Defendants
21 misclassified Plaintiff as an exempt employee.

22 **B. Defendants**

23 10. Plaintiff is informed and believes, and based upon that information and belief
24 alleges, that Defendant AT&T Mobility Wireless Operations Holdings, Inc. is, and at all times
25 herein mentioned was:

- 26 (a) A Delaware corporation that has not designated a principal business office
27 in California according to its latest Statement of Information (Foreign
28 Corporation) on file with the California Secretary of State;

- 1 (b) A corporation that maintains branches, facilities, and offices from which it
2 transacts business in a variety of locations in Alameda County, and is
3 otherwise within this Court's jurisdiction for purposes of service of
4 process; and
- 5 (c) The former employer of Plaintiff, and the current and/or former employer
6 of the putative Class. AT&T Mobility Wireless Operations Holdings, Inc.
7 suffered and permitted Plaintiff and the Class to work, and/or controlled
8 their wages, hours, or working conditions.

9 11. Plaintiff is informed and believes, and based upon that information and belief
10 alleges, that Defendant AT&T Mobility Services, LLC is, and at all times herein mentioned was:

- 11 (a) A Delaware limited liability company with its corporate headquarters and
12 principal place of business in Delaware.
- 13 (b) A business entity conducting business in numerous counties throughout the
14 State of California, including in Los Angeles County; and,
- 15 (c) The former employer of Plaintiff, and the current and/or former employer
16 of the putative Class. AT&T Mobility Services, LLC suffered and
17 permitted Plaintiffs and the Class to work and controlled their wages,
18 hours, or working conditions.

19 12. Plaintiff does not know the true names or capacities of the persons or entities sued
20 herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names.
21 Each of the Doe Defendants was in some manner legally responsible for the damages suffered by
22 Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this complaint to
23 set forth the true names and capacities of these Defendants when they have been ascertained,
24 together with appropriate charging allegations, as may be necessary.

25 13. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
26 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
27 and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of
28 California.

1 14. Plaintiff is informed and believes and thereon alleges that at all relevant times
2 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
3 the other employees described in the class definitions below, and exercised control over their
4 wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges
5 that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer,
6 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
7 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
8 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
9 some or all of the other Defendants so as to be liable for their conduct with respect to the matters
10 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted
11 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
12 should have known about, and authorized, ratified, adopted, approved, controlled, aided and
13 abetted the conduct of all other Defendants.

14 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

15 15. Plaintiff Isabel Ramos is a California resident that worked for Defendants in Los
16 Angeles County, California between 2015 to September 2018. During the statutory time period,
17 Defendants misclassified Plaintiff as a salaried exempt employee, when in-fact Plaintiff was a
18 non-exempt sales associate. During the statutory time period, Plaintiff typically worked 5 to 6
19 days per workweek, and typically 12 or more hours per workday.

20 16. Throughout Plaintiff's employment, Defendants committed numerous labor code
21 violations under state law. As discussed below, Plaintiff's experience working for Defendants
22 was typical and illustrative.

23 17. During the statutory period, despite working in excess of 8 hours per workday or
24 40 hours per workweek, Plaintiff and the Aggrieved Employees were not paid all overtime or
25 wages owed. In failing to pay for all hours worked, Defendants also failed to maintain accurate
26 records of the hours Plaintiff and the Aggrieved Employees worked.

27 18. During the statutory period, Defendants wrongfully failed to provide Plaintiff and
28 the Aggrieved Employees with timely and duty-free meal periods. Defendants regularly required

1 Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without
2 providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours
3 of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that
4 were not provided by the end of the fifth hour of work or tenth hour of work. Moreover,
5 Defendants did not have adequate written policies or practices providing meal periods for
6 Plaintiff and the Aggrieved Employees, nor did Defendants have adequate policies or practices
7 regarding the timing of meal periods. Defendants also did not have adequate policies or practices
8 to document and verify whether Plaintiff and the Aggrieved Employees were taking their
9 required meal periods. Accordingly, Defendants' policy and practice was to not provide meal
10 periods to Plaintiff and the Aggrieved Employees in compliance with California law.

11 19. During the statutory period, Defendants have wrongfully failed to authorize and
12 permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
13 Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four
14 consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute,
15 continuous and uninterrupted, rest period for every four hours of work (or major fraction of four
16 hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that
17 were not authorized or permitted. Defendants did not adequately inform Plaintiff and the
18 Aggrieved Employees of their right to take a rest period. Moreover, Defendants did not have
19 adequate policies or practices permitting or authorizing rest periods for Plaintiff and the
20 Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the
21 timing of rest periods. Defendants also did not have adequate policies or practices to verify
22 whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further,
23 Defendants did not maintain accurate records of employee work periods, and therefore
24 Defendants cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods
25 during the middle of each work period. Accordingly, Defendants' policy and practice was to not
26 authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance
27 with California law.
28

1 20. During the statutory period, Defendants willfully failed and refused to timely pay
2 Plaintiff and the Aggrieved Employees at the conclusion of their employment all wages for all
3 hours worked (including minimum, straight time, and overtime wages), for missed meal periods,
4 and for missed rest periods.

5 21. Defendant further maintained a policy of requiring Plaintiff and the Aggrieved
6 Employees to pay for employment-related expenses without reimbursement. For example, for
7 those employees that are provided with vehicles, Plaintiff and the Aggrieved Employees are
8 required to use their own vehicles and pay for their own gas, unreimbursed, for weeks until the
9 vehicle is delivered.

10 22. During the statutory period, Defendants failed to furnish Plaintiff and the
11 Aggrieved Employees with accurate, itemized wage statements showing all hours worked,
12 applicable hourly rates, and all gross and net wages earned (including wages for meal periods
13 that were not provided in accordance with California law, wages for rest periods that were not
14 authorized and permitted to take in accordance with California law, and correct wages earned for
15 hours worked). As a result of these violations of California Labor Code § 226(a), the Plaintiff
16 and the Aggrieved Employees suffered injury because, among other things:

- 17 (a) the violations led them to believe that they were not entitled to be paid
18 minimum wages, overtime wages, meal period premium wages, and rest
19 period premium wages, even though they were entitled;
- 20 (b) the violations led them to believe that they had been paid the minimum,
21 overtime, meal period premium, and rest period premium wages to which
22 they were entitled, even though they had not been;
- 23 (c) the violations led them to believe they were not entitled to be paid
24 minimum, overtime, meal period premium, and rest period premium wages
25 at the correct California rate even though they were;
- 26 (d) the violations led them to believe they had been paid minimum, overtime,
27 meal period premium, and rest period premium wages at the correct
28 California rate even though they had not been;

- 1 (e) the violations hindered them from determining the amounts of minimum,
2 overtime, meal period premium, and rest period premium wages owed to
3 them;
- 4 (f) in connection with their employment before and during this action, and in
5 connection with prosecuting this action, the violations caused them to have
6 to perform mathematical computations to determine the amounts of wages
7 owed to them, computations they would not have to make if the wage
8 statements contained the required accurate information;
- 9 (g) by understating the wages truly due them, the violations caused them to
10 lose entitlement and/or accrual of the full amount of Social Security,
11 disability, unemployment, and other governmental benefits;
- 12 (h) the wage statements inaccurately understated the wages, hours, and wages
13 rates to which Plaintiff and the Aggrieved Employees were entitled, and
14 Plaintiff and the Aggrieved Employees were paid less than the wages and
15 wage rates to which they were entitled.

16 Thus, Plaintiff and the Aggrieved Employees are owed the amounts provided for in California
17 Labor Code § 226(e).

18 **FIRST CAUSE OF ACTION**

19 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**
20 **2004, Cal. Lab. Code § 2698 et seq.)**

21 23. Plaintiff incorporates by reference and re-alleges all preceding paragraphs as
22 though fully set forth herein.

23 24. At all times herein mentioned, Defendants were subject to the Labor Code of the
24 State of California and the applicable Industrial Welfare Commission Orders.

25 25. California Labor Code § 2699(a) specifically provides for a private right of action
26 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
27 law, any provision of this code that provides for a civil penalty to be assessed and collected by
28 the Labor and Workforce Development Agency or any of its departments, divisions,

1 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
2 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
3 herself and other current or former employees pursuant to the procedures specified in Section
4 2699.3.”

5 26. Plaintiff has exhausted her administrative remedies pursuant to California Labor
6 Code § 2699.3. On May 31, 2019, she gave written notice by online filing to the Labor and
7 Workforce Development Agency and by certified mail to Defendants of the specific provisions
8 of the Labor Code that Defendants have violated against Plaintiff and current and former
9 aggrieved employees, including the facts and theories to support the violations. Plaintiff also
10 paid the filing fee on May 31, 2019. Plaintiff’s PAGA case number is LWDA-CM-700600-19.

11 27. The statute of limitations is tolled while a plaintiff exhausts her administrative
12 remedies with California’s Labor and Workforce Development Agency (LWDA) prior to suit,
13 which is required by the statute. (See Cal. Lab. Code § 2699.3(d).)

14 28. More than 65 days has elapsed since Plaintiff provided notice, but the Labor and
15 Workforce Development Agency has not indicated that it intends to investigate Defendants’
16 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil
17 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
18 the Labor Code described in this Complaint. These penalties include, but are not limited to,
19 penalties under California Labor Code §§ 210, 226.3, 1197.1, and 2699(f)(2).

20 29. In addition, Plaintiff seeks penalties for Defendants’ violation of California Labor
21 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
22 employing labor who willfully fails to maintain accurate and complete records required by
23 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
24 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee
25 begins and ends each work period. Meal periods, and total hours worked daily shall also be
26 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
27 keep total hours worked in the payroll period and applicable rates of pay.

30. During the time period of employment for Plaintiff and the Aggrieved Employees, Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to maintain accurate records showing meal periods, and accurate records showing when employees begin and end each work period. Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. Because of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

31. Based on the conduct described in this Complaint, Plaintiff is entitled to an award of civil penalties on behalf of herself, the State of California, and similarly Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial. These penalties are in addition to all other remedies permitted by law.

32. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs pursuant to Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

PRAYER FOR RELIEF

Plaintiff, on behalf of all similarly aggrieved employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. That the Court declare, adjudge and decree that Defendants violated the California Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and

overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, failing to furnish accurate wage statements, and failing to maintain accurate records of all hours worked and meal periods;

2. An award of civil penalties on behalf of herself and all similarly aggrieved employees pursuant to PAGA;

3. Pre-judgment and post-judgment interest at the maximum rate allowed;

4. Attorneys' fees and costs reasonably incurred;

5. Injunctive and declaratory relief to the extent allowed by PAGA; and

6. Such other and further relief that the Court deems proper.

Dated: August 9, 2019

Respectfully submitted,

MOON & YANG, APC

By: 

Kane Moon
Allen Feghali
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all causes of action triable by jury.

Dated: August 9, 2019

MOON & YANG, APC

By: 

Kane Moon
Allen Feghali
Attorneys for Plaintiff