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Attorneys for Plaintiff CHRISTOPHER MARRONE, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and other current and former employees.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

CHRISTOPHER MARRONE, on behalf of
himself and all others aggrieved employees,

Plaintiff,

v.

CAFFEINE STUDIOS LLC, a California
Limited Liability Corporation; and DOES 1- 50,
Inclusive,

Defendant,

Case No. 20-CIV-04830

**REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL FINES**

1. Civil Penalties under the Private Attorneys
General Act (PAGA)

DEMAND FOR JURY TRIAL

Plaintiff, CHRISTOPHER MARRONE, as a representative of the State of California and the Labor and Workforce Development Agency (LWDA), and on behalf of Plaintiff and other current and former employees, complains and alleges as follows:

//

1 **INTRODUCTION**

2 1. This is a representative action brought by Plaintiff, as a representative of the State
3 of California and the LWDA, and on behalf of Plaintiff and other aggrieved employees, to collect
4 civil penalties for Defendant's Labor Code violations.

5 2. Defendant and employer, CAFFEINE STUDIOS LLC., violated numerous wage
6 and hour laws with respect to Plaintiff and other aggrieved employees by failing to provide, for
7 example: accurate and itemized wages statements, payment for all hours worked (including
8 regular wages and overtime), failure to provide a minimum wage lawful meal periods, lawful
9 rest periods, timely payment during employment, failure to reimburse for expenses incurred
10 during the course and scope of employment, and payment upon separation of employment.

11 **PARTIES**

12 **The Plaintiff**

13 3. Plaintiff is, and at all times herein mentioned was, a resident of the County of Los
14 Angeles.

15 **The Defendant**

16 4. Defendant CAFFEINE STUDIOS LLC. is a limited liability corporation which, at
17 all-time relevant hereto, existing, doing business and employing individuals in the County of San
18 Mateo, State of California.

19 5. The true names and capacities, whether individual, corporate, associate, or
20 otherwise of Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this
21 time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to
22 amend this Complaint to insert the true names and capacities of said Defendants when the same
23 become known to Plaintiff. Plaintiff is informed and believes and thereupon alleges that each of
24 the fictitiously-named Defendants are responsible for the wrongful acts alleged herein and is
25 therefore liable to Plaintiff as alleged hereinafter.

26 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times
27 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
28 supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of

1 the other Defendants, and each of them, and in doing the things alleged herein, were acting at
2 least in part within the course and scope of said agency, employment, conspiracy, joint
3 employment, alter ego status, and/or joint venture and with the permission and consent of each of
4 the other Defendants.

5 7. Plaintiff is informed and believes, and based thereupon alleges, that
6 Defendants, and each of them, including those Defendants named DOES 1-50, acted in concert
7 with one another to commit the wrongful acts alleged therein, and aided, abetted, incited,
8 compelled, and/or coerced one another in the wrongful acts alleged herein, and/or attempted to
9 do so. Plaintiff is further informed and believes, and based thereupon alleges, that the
10 Defendants, and each of them, including those Defendants named as DOES 1-50, formed and
11 executed a conspiracy or common plan pursuant to which they would commit the unlawful acts
12 alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy,
13 intended to and actually causing Plaintiff harm.
14

15 8. Whenever and wherever reference is made in this Complaint to any act or
16 failure to act by a defendant or co-defendant, such allegations and references shall also be
17 deemed to mean the acts and/or failures to act by each defendant acting individually, jointly and
18 severally.

19 **JURISDICTION AND VENUE**

20 9. Venue is proper in San Mateo County, because Defendants maintain its locations
21 and transacts business in this county, the obligations and liability primarily arise in this county,
22 and work was primarily performed by Plaintiff and other aggrieved employees in this county.

23 10. The California Superior Court has jurisdiction over this matter. The individual
24 claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for
25 federal court and PAGA penalties cannot be aggregated to meet the minimum jurisdictional
26 amount required for diversity removal. Further, there is no federal question at issue as the issues
27 herein are based solely on California statutes and law, including, but not limited to, the California
28 Labor Code, Industrial Welfare Commission Wage Orders, California Code of Civil Procedure,

1 and California Rules of Court.

2 **GENERAL ALLEGATIONS**

3 11. In or around June 2019, Defendants hired Plaintiff and classified him as an
4 independent contractor. Plaintiff was terminated on or about June 26, 2020. Throughout the
5 PAGA period, Plaintiff's title was "Crew Member".

6 12. Plaintiff and similarly aggrieved employees were paid at a fixed rate of
7 approximately \$250.00 per day regardless of the number of hours worked.

8 13. Plaintiff and similarly aggrieved employees were also not reimbursed for all
9 necessary expenses incurred in the performance of their job duties. Employer required Plaintiff
10 and similarly aggrieved employees to purchase equipment (high speed computer processors,
11 sound mics, lighting supplies and studio backdrops) to fulfill their job function. Plaintiff and
12 similarly aggrieved employees also used their personal internet services to perform their work
13 duties without reimbursement.

14 14. On many occasions, Plaintiff and aggrieved employees would work more than 8
15 hours per day or 40 hours per week without overtime pay.

16 15. Employer regularly did not have enough employees to provide sufficient
17 coverage to maintain their business operations so Complainant and similarly aggrieved
18 employees could not take complete, timely and uninterrupted meal and rest breaks.

19 16. On one occasion Plaintiff was involved in a vehicle accident on or about
20 December 2018 and was required to compensate Defendant for damage to the vehicle.

21 17. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor
22 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
23 departments, divisions, commissions, boards, agencies or employees for violation of the code
24 may, as an alternative, be recovered through a civil action brought by an aggrieved employee on
25 behalf of himself or herself and other current or former employees pursuant to the procedures
26 specified in Labor Code section 2699.3.

27 18. For all provisions of the Labor Code except those for which a civil penalty is
28

specifically provided, Labor Code section 2699, subdivision (f) imposes upon Defendant a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which Defendant violated these provisions of the Labor Code.

19. Defendant's conduct during the PAGA period with respect to Plaintiff and the aggrieved employees violates numerous Labor Code sections as detailed herein.

20. Plaintiff alleges that Defendant has engaged in a systematic pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

21. At all relevant times herein, Defendant employed Plaintiff and other aggrieved employees as non-exempt employees.

22. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and aggrieved employees were entitled to receive wages for all hours worked, including the applicable minimum, regular, and overtime wages, and that they were not receiving all wages earned for work that was required to be performed. In violation of the Labor Code and IWC Wage Orders, Defendant failed to pay Plaintiff and aggrieved employees' for all hours worked, specifically for time spent driving to their first location in the morning and time spent driving from their last location of the day to its benefit. Accordingly, Defendant failed to pay Plaintiff and aggrieved employees all earned minimum, regular, and/or overtime compensation.

23. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and aggrieved employees were entitled to receive all required meal periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted off-duty meal period. In violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy of not providing timely meal periods. Defendant failed to pay an additional hour of pay to Plaintiff and aggrieved employees for late meal periods. As a result of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did not receive all meal periods or

1 payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of
2 pay when they did not receive a timely, uninterrupted 30 minute off-duty meal period.

3 24. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
4 or should have known that Plaintiff and aggrieved employees were entitled to receive all required
5 rest periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees'
6 regular rate of pay when they did not receive a timely, uninterrupted off-duty rest period. In
7 violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy
8 of not providing timely rest periods. Defendant failed to pay an additional hour of pay to Plaintiff
9 and aggrieved employees for each rest periods was not provided or was interrupted. As a result
10 of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did not receive
11 all required rest periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
12 employees' regular rate of pay when they did not receive a timely, uninterrupted 10 minute off-
13 duty rest period.

14 25. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
15 or should have known that Plaintiff and certain aggrieved employees were entitled to timely
16 payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiff
17 and certain aggrieved employees did not receive payment of all wages due, within permissible
18 time periods, upon separation of employment.

19 26. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
20 or should have known that Plaintiff and aggrieved employees were entitled to receive itemized
21 wage statements that accurately showed their actual hours worked, total hours worked, number
22 of hours worked at each hourly rate, gross and net wages earned, and correct employer
23 information in accordance with California law. In violation of the Labor Code, Plaintiff and
24 aggrieved employees were not provided with accurate itemized wage statements that accurately
25 reported their gross and net wages earned, total hours worked, each applicable rate of pay in
26 effect during the pay period with the corresponding number of hours worked, and the address of
27 the legal entity that is the employer, among other things.
28

27. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Defendant was required to maintain accurate records of the hours worked by Plaintiff and aggrieved employees. In violation of the Labor Code, Defendant failed to maintain accurate records of hours worked by Plaintiff and aggrieved employees due to its unfair rounding practices, among other things.

FIRST CAUSE OF ACTION

**(Civil Penalties Under the Private Attorneys General Act,
Labor Code § 2699 et seq., For Violations of the Labor Code)**

28. By this complaint, Plaintiff brings this case as a representative action seeking penalties for himself, the aggrieved employees, and the State of California in a representative capacity, as provided by the PAGA, Labor Code sections 2698 et seq. Plaintiff is an aggrieved employee who was employed by Defendant and subject to at least one of the Labor Code violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in his notice to the LWDA and Defendants: violation of Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

29. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause of action under PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate, or after 65 days have passed without notice from the LWDA.

30. Prior to filing this complaint, on August 14, 2020, Plaintiff gave written notice of the specific provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code section 2699.3. The written notice was given via certified mail to Defendants, and the LWDA by electronically filing the notice via the Department of Industrial Relations website. Plaintiff was given an LWDA case number of LWDA-CM-802620-20. A true and correct copy of Plaintiff's notice to the LWDA and Defendant(s), dated August 14, 2020. is attached hereto as Exhibit A.

31. The LWDA has not provided Plaintiff with any notice that it intends to investigate

1 the violations as alleged in Plaintiff's August 14, 2020 notice, and more than 65 calendar days
2 have elapsed since the postmark date on the notice.

3 32. California Labor Code §§2698-2699.5, in relevant part provides, "any provision
4 of this code that provides for a civil penalty to be assessed and collected by the Labor and
5 Workforce Development Agency...for a violation of this code, may, as an alternative, be
6 recovered through a civil action brought by an aggrieved employee on behalf of himself or
7 herself and other current or former employees pursuant to the procedures specified in Section
8 2699.3."

9 33. As an aggrieved employee, Plaintiff brings this civil action to recover civil
10 penalties for Defendant's Labor Code violations.

11 **FIRST VIOLATION**

12 **(Failure to Provide Meal Periods, in Violation of Labor Code Section 512)**

13 34. Under California Labor Code §512(a), "An employer may not employ an
14 employee for a work period of more than five hours per day without providing the employee
15 with a meal period of not less than 30 minutes, except that if the total work period per day of the
16 employee is no more than six hours, the meal period may be waived by mutual consent of both
17 the employer and employee."

18 35. Defendant violated Labor Code § 512 by failing to provide Plaintiff, and other
19 qualifying employees who worked shifts of greater than five hours, meal periods within the first
20 five hours of the shifts worked. Defendant failed to pay Plaintiff one hour's pay at Plaintiff's
21 regular rate of pay for each day Defendant failed to provide a meal period in compliance with
22 section 512.

23 **SECOND VIOLATION**

24 **(Failure to Provide Rest Periods, in Violation of Labor Code Section 226.7)**

25 36. Under California Labor Code §226.7(b), "An employer shall not require an
26 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
27 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"
28

37. Industrial Welfare Commission (IWC) provides, “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

38. Defendant failed to authorize and permit Plaintiff and other employee to take rest periods and mandated by the Wage Order.

39. Under §226.7(c), an employer who violates §226.7(b), “...shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”

40. Defendant failed to pay Plaintiff and other employees who were not provided rest periods one hour of pay at their regular rate of pay.

THIRD VIOLATION

**(Failure to Provide Complete and Accurate Wage Statements,
in Violation of Labor Code Section 226)**

41. Under California Labor Code §226(a), an employer is legally obligated to provide its employees, semi-monthly or at the time of payment of wages, “an accurate itemized statement in writing...”

42. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under Labor Code § 2699.

FOURTH VIOLATION

(Failure to Pay Overtime Wages)

43. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Orders, an employer is required to compensate employees for all overtime, which is calculated at one and one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday

1 and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in
2 any workweek.

3 44. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
4 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
5 Labor Code § 2699.

6 **FIFTH VIOLATION**

7 **(Failure to Pay Minimum Wages)**

8 45. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Orders,
9 payment to an employee of less than the applicable minimum wage for all hours worked in a
10 payroll period is unlawful.

11 46. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
12 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
13 Labor Code § 2699.

14 **SIXTH VIOLATION**

15 **(Failure to Timely Pay Wages During Employment)**

16 47. Pursuant to California Labor Code § 204, for all labor performed between the 1st
17 and 15th days of any calendar month, an employer is required to pay its employees between the
18 16th and 26th day of the month during which the labor was performed. California Labor Code §
19 204 also provides that for all labor performed between the 16th and 26th days of any calendar
20 month, Defendants are required to pay their employees between the 1st and 15th day of the
21 following calendar month. In addition, California Labor Code § 204 provides that all wages
22 earned for labor in excess of the normal work period shall be paid no later than the payday of the
23 next regular payroll period.

24 48. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
25 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
26 Labor Code § 2699.
27
28

1 **SEVENTH VIOLATION**

2 **(Failure to Pay All Wages Due to Discharged and Quitting Employees)**

3 49. Pursuant to California Labor Code § 201, 202, and 203, Defendants are required
4 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code §
5 201 mandates that if an employer discharges an employee, the employee's wages accrued and
6 unpaid at the time of discharge are due and payable immediately.

7 50. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
8 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
9 Labor Code § 2699.

10 **EIGHTH CAUSE OF ACTION**

11 **(Failure to Reimburse Business Expenses)**

12 (Plaintiff realleges and incorporates by reference the allegations in paragraphs 1 through 68.

13
14 51. Labor Code section 2802 provides that an employer shall indemnify his or her
15 employee for all necessary expenditures or losses incurred by the employee in direct
16 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
17 the employer.

18 52. Defendant failed to indemnify Plaintiff and aggrieved employees for all necessary
19 expenditures or losses incurred by Plaintiff and aggrieved employees in direct consequence of
20 the discharge of their duties. Specifically, Defendant failed to indemnify Plaintiff and aggrieved
21 employees for expenditures they incurred on their behalf, including, but not limited to, high
22 speed computer processors, sound mics, lighting supplies, and studio backdrops to fulfill their
23 job functions. In violation of the Labor Code, Defendant failed to reimburse Plaintiff and
24 aggrieved employees for these business-related expenditures.

25 53. Furthermore, Plaintiff and aggrieved employees were required to use their
26 personal cellphones in the course and scope of their employment to carry out their employment
27 duties, including without limitation contacting clients and communicating with their supervisors
28 for instructions or to provide status reports. Plaintiff and aggrieved employees were not provided

1 reimbursement for the reasonable usage of their personal cellphone by Defendant.

2 54. By virtue of Defendant's unlawful actions, Plaintiff and the aggrieved employees
3 have suffered, and will continue to suffer, damages in amounts which are presently unknown,
4 but will be ascertained according to proof at trial.

5 55. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
6 employees and the State of California for violations of Labor Code section 2802 during the
7 PAGA period, in a sum as provided by the Labor Code and/or other statutes.

8 56. Plaintiff, individually and on behalf of the aggrieved employees and the State of
9 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699, subdivision
10 (g) and Code of Civil Procedure section 1021.5.

11
12 **PRAYER FOR RELIEF**

13 **WHEREFORE,** Plaintiff prays for the following relief:

- 14 1. For penalties in an amount according to proof;
15 2. For reasonable attorney's fees and costs pursuant to the PAGA; and
16 3. For such other and further relief as this Court may deem just and proper.
17

18 Respectfully Submitted,

19 Dated: November 4, 2020

WORK LAWYERS, PC

20
21
22 By:  _____

Justin Lo

Attorney for Plaintiff
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Exhibit A



NOTICE OF LABOR CODE VIOLATIONS - PAGA
(Lab. Code, § 2699.3)

DATE August 14, 2020

DELIVERY Online Filing and Certified U.S. Mail

RECIPIENTS California Labor &
Workforce Development Agency
PAGAfilings@dir.ca.gov

Incorp Services, Inc.
Agent for Service of Process
5716 Corsa Ave. Suite 110
Westlake Village, CA 91362-7354

Caffeine Studios, LLC.
Human Resources/Legal Dept.
1118 Chestnut Street
Burbank, CA 91506

Caffeine Studios, LLC.
Human Resources/Legal Dept.
2629 Broadway
Redwood City, CA 94063

SUBJECT CHRISTOPHER MARRONE V. CAFFEINE STUDIOS LLC. – NOTICE OF
LABOR CODE VIOLATIONS UNDER CAL. LABOR CODE 2699.3

Dear PAGA Administrator:

Office: (855) 670267
E-Mail: info@WorkLawyers.com
22939 Hawthorne Boulevard, Suite 202
Torrance, California 90505

This office represents Christopher Marrone (“Complainant”) in connection with claims under the California Labor Code. Complainant is a former employee of Caffeine Studios, LLC. (“Employer”). Pursuant to Labor Code section 2699.3, subdivision (a), we are providing written notice that Employer is in violation of various provisions of the California Labor Code.

Complainant intends to file a complaint against Employer in California Superior Court pursuant to Labor Code section 2699 on behalf of themselves and all similarly aggrieved employees within the one year prior to the filing of the complaint (“Aggrieved Employees”).

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Complainant reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, employer is on notice that Complainant continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

If Employer intends to cure the alleged violations within the statutory time period set forth in Labor Code sections 2699 and 2699.3, subdivision (a), the employer shall provide notice including a description of actions taken to cure. If the alleged violation is not cured within the statutory time period, employee will commence a civil action pursuant to Section 2699.

The Named Entities Are Joint Employers of Complainant and Aggrieved Employees

California courts have recognized that the definition of “employer” for the purpose of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35,65. As such, anyone who directly

or indirectly, or through an agent or any other person, engages, suffers or permits any person to work or exercises control over the wages, hours, working conditions or any person, may be liable for violations of the California Labor Code as to that person.

Complainant believes and asserts that Caffeine Studios, LLC. must be classified as joint employers of Complainant for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered, and permitted Complainant to perform services from which they benefitted, and furthermore the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of Complainant at all relevant times, so as to be considered the joint employers of Complainant. By reason of their status as joint employers of Complainant, they are each liable for civil penalties for violation of the California Labor Code as to the Complainant and other aggrieved employees.

The Employer

Employer and its agents own, operate, or otherwise manage a business known as Caffeine Studios, LLC. According to the California Secretary of State's website, Employer is a business registered in California on January 22, 2019.

Employer may be contacted directly through its agent for service of process at:

Incorp Services, Inc.
Agent for Service of Process
5716 Corsa Ave. Suite 110
Westlake Village, CA 91362-7354

The business and mailing address listed for Employer with the California Secretary of State is as follows:

Caffeine Studios, LLC.
1118 Chestnut Street
Burbank, CA 91506

Caffeine Studios, LLC.
2629 Broadway
Redwood City, CA 94063

Complainant believes and hereon alleges that Employer employs, at a minimum, 50 or more similarly situated non-exempt employees at its California locations at any given time. Specifically, it is believed that at any given time Employer has approximately 50 or more persons employed and working as Crew Member within California, with additional employees in other positions within California.

Factual Background

Employer employed Complainant as a Crew Member or other like positions in California. Complainant began working on or about June 2019 and his last day of employment was on or about June 26, 2020. Complainant and aggrieved employees produced media content for employer.

The position required Complainant to work more than 8 hours a day and/or 40 hours per week without lawful compensation. Complainant and similarly aggrieved employees were compensated at a fixed rate of approximately \$250 per day. Complainant and aggrieved employees were classified as independent contractors.

Complainant and similarly aggrieved employees were not paid minimum wages and overtime for compensable work time spent under the control of Employer that was not compensated.

Complainant and similarly aggrieved employees were also not reimbursed for all necessary expenses incurred in the performance of their job duties. Employer required Complainant and similarly aggrieved employees to purchase equipment (high speed computer processors, sound mics, lighting supplies and studio backdrops) to fulfill their job function. Complainant and similarly aggrieved employees also use their personal internet services to perform their work duties without reimbursement.

Employer failed to authorize and permit all required rest periods for Complainant and similarly situated employees because, upon information and belief, employer maintained unlawful rest

period policies/practices. Employer regularly did not have enough employees to provide sufficient coverage to maintain their business operations so Complainant and similarly aggrieved employees could not take complete, timely and uninterrupted meal and rest breaks. Employer failed to provide Complainant and similarly situated employees with an additional hour of premium pay at the regular rate of pay for each rest period violation, as required by Labor Code section 226.7.

Defendants failed to provide Complainant accurate itemized wage statements in writing.

Legal Violations

At all relevant times, Complainant and Aggrieved Employees were non-exempt employees working for Employer. At all relevant times, Complainant was an aggrieved employee as defined in Labor Code section 2699, subdivision (c). (Lab. Code, § 2699, subd. (c) [“any person who was employed by the alleged violator who was employed by the alleged violator and against whom one or more of the violations was committed”].)

Complainants employment resulted in numerous violations of the California Labor Code, including the following:

- Employer failed to keep accurate and complete time records for Complainant and Aggrieved Employees. (Lab. Code, §§ 1174, 1198, 1199; Cal. Code Regs., tit. 8, § 11040, subd. 7(A)(3) [“Every employer shall keep accurate information with respect to each employee including the following: . . . Time records showing when the employee begins and ends each work period.”].)
- Employer failed to pay Complainant and Aggrieved Employees for all hours worked. (Lab. Code, § 1197; *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324 [an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage].)

- ☐ Employer failed to pay Complainant and Aggrieved Employees at least minimum wage for all hours worked or overtime rates for overtime work. (Lab. Code, §§ 1194, 1197, 1197.1.)
- ☐ Employer failed to pay Complainant and Aggrieved Employees overtime equal to one and one-half times their regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. (Lab. Code §§ 510, 1198–1199; Cal. Code Regs., tit. 8, § 11040, subd. 3.)
- ☐ Employer failed to pay Complainant and Aggrieved Employees overtime equal to double their regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day or work in a work week. (Lab. Code §§ 510, 1198–1199; Cal. Code Regs., tit. 8, § 11040, subd. 3.)
- ☐ Employer failed to maintain a company meal period policy compliant with California law and failed to provide Complainant and other Aggrieved Employees with proper meal periods. (Lab. Code, §§ 226.7, 512, subd. (a); Cal. Code Regs., tit. 8, § 11040, subd. 11.)
- ☐ Employer failed to properly compensate Complainant and Aggrieved Employees with an additional hour of premium pay for missed or improper meal periods. (Lab. Code, §§ 226.7, 512, subd. (a); Cal. Code Regs., tit. 8, § 11040, subd. 11.)
- ☐ Employer failed to maintain a company rest break policy compliant with California law and failed to provide Complainant and other Aggrieved Employees with proper rest breaks. (Lab. Code, § 226.7; Cal. Code Regs., tit. 8, § 11040, subd. 12.)

- ☐ Employer failed to properly compensate Complainant and Aggrieved Employees with an additional hour of premium pay for missed or improper rest breaks. (Lab. Code, § 226.7; Cal. Code Regs., tit. 8, § 11040, subd. 12.)
- ☐ Employer failed to properly record Complainant and Aggrieved Employees' meal periods as required by Labor Code section 1198 and applicable IWC Wage Orders (Lab. Code, § 1198; Cal. Code Regs., tit. 8, § 11040, subd. 7(A)(3) ["Meal periods, split shift intervals and total daily hours worked shall also be recorded."].)
- ☐ Employer failed to pay Complainant and Aggrieved Employees all wages earned by Complainant and Aggrieved Employees on at least semimonthly paydays. (Labor Code, §§ 204, subd. (a), 207.)
- ☐ Employer took improper deductions from the pay of Complainant and Aggrieved Employees. (Lab. Code, § 221–224, 2802.)
- ☐ Employer refused to make and/or falsely denied the amount of payments due to Complainant and Aggrieved Employees. (Lab. Code, § 216; see also Lab. Code, §§ 1174, 1197, 1197.1, 1198, 1199, 2699.)
- ☐ Employer intentionally and willfully failed to provide proper and accurate wage statements to employees Complainant and Aggrieved Employees. (Lab. Code, § § 226, subd. (a), 226.3, 226.6.) The deficiencies include, among other things, the failure to correctly identify the total hours worked, the gross wages, and correct hourly rate earned by Complainant and Aggrieved Employees.
- ☐ Employer failed to provide proper notices regarding employee pay to Complainant and Aggrieved Employees. (Lab. Code, § 2810.5.)

- ☐ Employer failed to pay employees all earned and unpaid wages when they separated/separate from employment. (Lab. Code, §§ 201, 202, 203, 210.)
- ☐ Employer refused to reimburse Complainant and Aggrieved Employees for all expenses incurred during the course and scope of their employment (Lab. Code, § 2802.)

Employer has violated the abovereferenced California Labor Code provisions, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. Complainant and other Aggrieved Employees seek to recover those amounts.

Conclusion

Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in question and to the Labor Workforce Development Agency ("LWDA") setting forth the claims and the basis for the claims, thereby giving the Labor Workforce Development Agency an opportunity to investigate the claims or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by Labor Code sections 2699 and 2699.3, subdivision (a), prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the Labor Workforce Development Agency intends to take any action in reference to these claims. We kindly ask that you respond to this notice according to the time frame contemplated by the code.

If the Labor Commissioner or LWDA elects not to take any action with respect to any of the foregoing claims, Complainant will seek these penalties in a civil action, on behalf of herself and all other similarly situated California-based non-exempt aggrieved employees of Employer within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within **sixty (60) days** of this notice to our office and to that of other charged parties.

If you have any questions, please contact me at the phone number or address below:

Justin Lo
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22939 Hawthorne Boulevard, Suite 202
Torrance, California 90505
Tel: (855) 670-1267
Email: Justin@WorkLawyers.com

Thank you for your attention to this matter. I look forward to hearing from you at your earliest convenience.

Sincerely,


JUSTIN LO