

1 Alex Asil Mashiri, Esq. (SBN 283798)

alexasmashiri@yahoo.com

2 **MASHIRI LAW FIRM**

A Professional Corporation

3 11251 Rancho Carmel Drive #500694

4 San Diego, CA 92150

Tel: (858) 348-4938

5 Fax: (858) 348-4939

6 Tamim Jami, Esq. (SBN 311351)

7 tamim@jamilaw.com

8 **THE JAMI LAW FIRM P.C.**

3525 Del Mar Heights Rd #941

9 San Diego, CA 92130

Tel: (858) 284-0248

10 Fax: (858) 284-0977

11 Attorneys for Plaintiff

12 DUNIA MEDINA TORRES

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES, TORRANCE COURTHOUSE**

16 DUNIA MEDINA TORRES, an individual,)
17 for the real party in interest, the State of)
18 California,)

18 Plaintiff,)

19 vs.)

20)
21 DENIM TECHNOLOGIES LLC;)
22 MICHAEL BALL, an individual, and)
23 DOES 1 through 50,)

23 Defendants.)

Case No.: 20TRCV00714

REPRESENTATIVE ACTION

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

1 Plaintiff DUNIA MEDINA TORRES (“Plaintiff”), in her capacity as the State of
2 California’s designated proxy under the Private Attorneys General Act, and on behalf of
3 other current and former California employees (“Represented Employees”) alleges the
4 following:

5 **NATURE OF THE ACTION**

6 1. Pursuant to the Private Attorney General Act (“PAGA”), incorporated in Labor
7 Code sections 2698, 2699 *et seq.*, Plaintiff brings this representative action against
8 Defendants DENIM TECHNOLOGIES LLC (“DENIM”), MICHAEL BALL, an individual,
9 and DOES 1 through 50 (all defendants are hereinafter collectively referred to as
10 “Defendants”) for wage and hour violations of the California Labor Code and the applicable
Industrial Welfare Commission Wage Order (the “IWC Wage Order”).

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

17 3. By this action, Plaintiff, who is an aggrieved employee, seeks civil penalties on
18 behalf of herself and other aggrieved employees pursuant to PAGA.

19 4. Plaintiff seeks to recover the PAGA civil penalties through a representative
20 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.

21 **JURISDICTION AND VENUE**

22 5. Pursuant to Article VI, section 10 of the California Constitution, subject matter
23 jurisdiction is proper in the Superior Court of California, County of Los Angeles, State of
24 California because Plaintiff alleges claims arising under California law.

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

28 7. This Court has jurisdiction over Plaintiff’s claims for civil penalties under

1 PAGA.

2 8. Pursuant to California Code of Civil Procedure section 395, venue is proper in
3 the Superior Court of California for the County of Los Angeles, Torrance Courthouse,
4 because this is where Plaintiff was employed and where the wrongful misconduct alleged
5 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. Plaintiff is an “aggrieved employee” because she was employed by Defendants
11 and had one or more of the alleged violations committed against her, and therefore is
12 properly suited to act on behalf of the Represented Employees, who are also aggrieved
13 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. Defendants are Plaintiff and the Represented Employees employer.

16 13. Defendant MICHAEL BALL is a natural person who is an owner, director,
17 officer, or managing agent of the employer.

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

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

1 16. Plaintiff is informed and believes, and based thereon alleges, that each
2 Defendant was acting partly within and partly without the scope and course of their
3 employment, and was acting with the knowledge, permission, consent, and ratification of
4 every other Defendant.

5 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

6 17. Defendants are the owner and operator of a clothing manufacturing facility in
7 California.

8 18. Plaintiff worked for Defendants during which time she was paid hourly and
9 considered non-exempt.

10 19. Plaintiff brings this PAGA claim as the state's designated proxy, suing on
11 behalf of all affected employees.

12 **PAGA REPRESENTATIVE ACTION CLAIMS**

13 20. On information and belief, current and former employees of Defendants were
14 subject to wage and hour violations by Defendants, specifically by Defendants' violations of
15 Labor Code sections 201, 202, 203, 204, 226, 226(a)(1)-(a)(9), 226.3, 246, 432.5, 510, 925,
16 and 2699 et seq.

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

21 22. Labor Code section 558.1 provides: "Any employer or other person acting on
22 behalf of an employer, who violates, or causes to be violated, any provision regulating
23 minimum wages or hours and days of work in any order of the Industrial Welfare
24 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or
25 2802, may be held liable as the employer for such violation."

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

 24. Defendant MICHAEL BALL is liable, as the employer, for all such violations
alleged herein.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. As to penalty claims under PAGA, on August 5, 2020, Plaintiff, via counsel, sent the statutorily required notice to the LWDA, indicating that Plaintiff intends to pursue claims against Defendants for violations of the Labor Code.

26. On August 5, 2020, Plaintiff, via counsel, sent a copy of the August 5, 2020 notice to Defendants.

27. The statutory period expired since Plaintiff sent the August 5, 2020 notice to the LWDA and LWDA did not serve Plaintiff 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).

28. Therefore, Plaintiff has exhausted the administrative requirements as required under the PAGA.

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

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

b. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged violator and had one or more of the alleged violations committed against them; and

c. Plaintiff has satisfied the procedural requirements of Labor Code § 2699.3, as set forth above.

30. As a result of the acts alleged above, Plaintiff seeks to recover PAGA penalties for violations of the following Labor Code provisions.

a. failure to provide wages for all overtime hours worked in violation of Labor Code section 510;

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

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

- 1 d. failure to pay earned wages in violation of Labor Code sections 201,
2 202, and 203; and
3 e. failure to comply with Labor Code section 432.5.

4 **FIRST CAUSE OF ACTION**
5 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**
6 **510 against all Defendants)**

7 31. Plaintiff re-alleges and incorporate by reference the foregoing allegations as
8 though set forth herein.

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

16 33. Plaintiff is informed and believes and based thereon allege that during all
17 times relevant to this action, there were several occasions in which Plaintiff and other
18 employees were not paid at the appropriate rate for all overtime hours worked. Specifically,
19 Plaintiff and Represented Employees were not paid for the proper amount of overtime
20 because Defendants would exclusively compensate them at their base hourly rate of pay.

21 34. Upon information and belief, during all times relevant to this action,
22 Defendants violated Labor Code sections 510, 558, 1194, 1198, and the Applicable IWC
23 Wage Order section 3(A).

24 35. Plaintiff and Represented Employees were entitled to overtime compensation
25 pursuant to Labor Code section 510 for all hours considered overtime.

26 36. Upon information and belief, Defendants failed to provide Plaintiff and
27 Represented Employees with overtime compensation for all hours considered overtime, as
28 required under Labor Code section 510.

37. Upon information and belief, Defendants failed to provide Plaintiff and
Represented Employees with the appropriate rate of pay when paying overtime, as required
under Labor Code section 510.

1 38. PAGA imposes upon Defendants, and each of them, penalties for violating
2 Labor Code section 510.

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

8 40. Pursuant to Labor Code section 558, any employer or other person acting on
9 behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to
10 558.1 or any provision regulating hours and days of work in any order of the Industrial
11 Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section
12 558 imposes upon Defendants, and each of them, civil penalties of fifty dollars (\$50) per pay
13 period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay
14 period, per aggrieved employee for subsequent violations

15 41. Plaintiff is seeking civil penalties against Defendants under Labor Code
16 sections 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing
17 recovery of civil penalties under PAGA on behalf of herself and the Represented Employees
18 as alleged herein in an amount to be shown according to proof.

19 42. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
20 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
21 an amount to be shown according to proof.

22 **SECOND CAUSE OF ACTION**
23 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**
24 **226(a)(1) against all Defendants)**

25 43. Plaintiff re-alleges and incorporate by reference the foregoing allegations as
26 though set forth herein.

27 44. Plaintiff and Represented Employees were entitled to receive accurate wage
28 statements in accordance with Labor Code section 226(a).

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

 46. Defendants failed to accurately state the proper gross on the wage statements

1 in violation of Labor Code section 226(a)(1). By way of one example, the wage statements
2 failed to include the proper amounts of gross wages because it failed to include the proper
3 amount of wages due for overtime hours worked. Other examples of such failures exist.

4 47. PAGA imposes upon Defendants, and each of them, penalties for violating
5 Labor Code section 226(a)(1).

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

10 49. With respect to violations of Labor Code section 226, Labor Code section
11 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
12 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
13 violation for each employee for each pay period.

14 50. Plaintiff is seeking penalties against Defendants under Labor Code sections
15 2699(f), 226.3, and/or any other applicable statute allowing recovery of penalties under
16 PAGA on behalf of herself and the Represented Employees as alleged herein in an amount
17 to be shown according to proof.

18 51. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
19 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
20 an amount to be shown according to proof.

21 **THIRD CAUSE OF ACTION**
22 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**
23 **226(a)(5) against all Defendants)**

24 52. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
though set forth herein.

25 53. Plaintiff and Represented Employees were entitled to receive accurate wage
26 statements in accordance with Labor Code section 226(a).

27 54. Labor Code section 226(a)(5) requires that the wage statements accurately
28 state the net wages earned.

55. Defendants failed to accurately state the proper net on the wage statements in

1 violation of Labor Code section 226(a)(5). By way of one example, the wage statements
2 failed to include the proper amounts of net wages because it failed to include the proper
3 amount of wages due for overtime hours worked. Other examples of such failures exist.

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

6 57. PAGA imposes upon Defendants, and each of them, penalties for violating
7 Labor Code section 226(a)(5).

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

12 59. With respect to violations of Labor Code section 226, Labor Code section
13 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
14 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
15 violation for each employee for each pay period.

16 60. Plaintiff is seeking penalties against Defendants under Labor Code sections
17 2699(f), 226.3, and/or any other applicable statute allowing recovery of penalties under
18 PAGA on behalf of herself and the Represented Employees as alleged herein in an amount
19 to be shown according to proof.

20 61. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
21 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
22 an amount to be shown according to proof.

23 **FOURTH CAUSE OF ACTION**
24 **(Representative Claim for Penalties Under PAGA for violations of Labor Code section**
25 **226(a)(9) against all Defendants)**

26 62. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
27 though set forth herein.

28 63. Plaintiff and Represented Employees were entitled to receive accurate wage
statements in accordance with Labor Code section 226(a).

64. Labor Code section 226(a)(9) requires that the employer's wage statements

1 accurately state all applicable hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate by the employee.

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

6 66. By way of one example, Defendant failed to include the proper hours and rate
7 for all overtime hours worked during a given pay period. Other examples of such failures
8 exist.

9 67. All other claims alleged in this complaint have also resulted in a derivative
10 claim of an inaccurate itemized wage statement.

11 68. PAGA imposes upon Defendants, and each of them, penalties for violating
12 Labor Code section 226(a)(9).

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

18 70. With respect to violations of Labor Code section 226, Labor Code section
19 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
20 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
21 violation for each employee for each pay period.

22 71. Plaintiff is seeking civil penalties against Defendants under Labor Code
23 sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of penalties
24 under PAGA on behalf of herself and the Represented Employees as alleged herein in an
25 amount to be shown according to proof.

26 72. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
27 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
28 an amount to be shown according to proof.

FIFTH CAUSE OF ACTION
(Representative Claims for Penalties Under PAGA for violation of Labor Code sections 226(a) and 246(i) against all Defendants)

73. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

74. Labor Code section 226(a) requires an employer to provide each employee with an *accurate* itemized wage statement.

75. Labor Code section 246(i) requires that the employer's wage statements accurately state the amount of paid sick leave available.

76. Labor Code section 246(i) adds an additional requirement to Labor Code section 226(a)'s wage statement requirements.

77. Plaintiff and Represented Employees were entitled to receive paid sick leave pursuant to Labor Code section 246.

78. Plaintiff and Represented Employees were entitled to receive accurate wage statements in accordance with Labor Code sections 226(a) and 246(i).

79. Defendants failed to accurately itemize the amount of paid sick leave available on wage statements issued to Plaintiff and Represented Employees in violation of Labor Code sections 226(a) and 246(i).

80. By way of one example, the sick rate accrual and usage rates are inaccurate because they are not listed in violation of section 246(i) which specifically makes reference to such requirement as a supplemental itemization to those enumerated in section 226(a). Other examples of such failures exist.

81. Defendants violated section 226(a) and 246(i) because they chose to include the available sick leave amount on its wage statements rather than in a separate writing. It follows, then, that because it had an obligation to ensure that the available sick leave as itemized on the wage statements was accurate, any inaccurate reporting results in an inaccurate wage statement in violation of Labor Code sections 246(i) and 226(a).

82. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code sections 226(a) and 246(i).

83. 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

1 violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for
2 subsequent violations for all Labor Code provisions for which a civil penalty is not
3 specifically provided.

4 84. With respect to violations of Labor Code section 226, Labor Code section
5 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
6 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
7 violation for each employee for each pay period.

8 85. Pursuant to Labor Code section 248.5(e), Plaintiff seeks to recover the relief
9 available under Labor Code section 248.5 on behalf of herself and the Represented
10 Employees as alleged herein in an amount to be shown according to proof.

11 86. Plaintiff is seeking penalties against Defendants under Labor Code sections
12 226.3, 2699(f), 248.5, and/or any other applicable statute allowing recovery of penalties
13 under PAGA on behalf of herself and the Represented Employees as alleged herein in an
14 amount to be shown according to proof.

15 87. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
16 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
17 an amount to be shown according to proof.

18 **SIXTH CAUSE OF ACTION**
19 **(Representative Claims for Penalties Under PAGA for violation of Labor Code section**
20 **226(a) against all Defendants)**

21 88. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
22 though set forth herein.

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

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

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

1 92. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
2 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial
3 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 93. With respect to violations of Labor Code section 226, Labor Code section
7 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for
8 each employee for each pay period, and one thousand dollars (\$1000) for each subsequent
9 violation for each employee for each pay period.

10 94. Plaintiff is seeking civil penalties against Defendants under Labor Code
11 sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil
12 penalties under PAGA on behalf of herself and the Represented Employees as alleged herein
13 in an amount to be shown according to proof.

14 95. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
15 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
16 an amount to be shown according to proof.

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

20 96. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
21 though set forth herein.

22 97. 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 98. Defendants violated Labor Code section 204 because they failed to timely pay
28 Plaintiff and the Represented Employees all earned wages. By way of one example, Plaintiff
and the Represented Employees were owed overtime wages, which Defendants failed to
compensate at the appropriate regular rate of pay. This resulted in the underpayment of
wages.

1 99. Defendants have failed to pay Plaintiff and Represented Employees all wages
2 due and owed.

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

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

9 102. Plaintiff is seeking civil penalties against Defendants under Labor Code
10 section 2699(f), and any other applicable statute allowing recovery of penalties under PAGA
11 on behalf of herself and the Represented Employees as alleged herein in an amount to be
12 shown according to proof.

13 103. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
14 attorney's fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
15 an amount to be shown according to proof.

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

18 104. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
19 though set forth herein.

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

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

28 107. 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

1 or who quits, the wages of the employee shall continue as a penalty from the due date
2 thereof at the same rate until paid or until an action therefore is commenced; but the wages
3 shall not continue for more than 30 days. ...”

4 108. Upon information and belief, Plaintiff and the Represented Employees did not
5 receive all wages upon termination or separation of employment. By way of one example,
6 Plaintiff and the Represented Employees were owed overtime wages, which Defendants
7 failed to compensate at the appropriate regular rate of pay. This resulted in the
8 underpayment of wages.

9 109. Defendants have failed to pay Plaintiff and Represented Employees all wages
10 due and owed.

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

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

18 112. Plaintiff is seeking penalties against Defendants under Labor Code section
19 2699(f), and any other applicable statute allowing recovery of civil penalties under PAGA
20 on behalf of herself and the Represented Employees as alleged herein in an amount to be
21 shown according to proof.

22 113. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
23 attorney’s fees, costs, filing fees paid to the LWDA, and civil penalties as alleged herein in
24 an amount to be shown according to proof.

25 **NINTH CAUSE OF ACTION**
26 **(Representative Claims for Penalties Under PAGA for Violation of Labor Code Section**
27 **432.5 against all Defendants)**

28 114. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
though set forth herein.

115. Under Labor Code section 432.5, “[no] employer, or agent, manager,
superintendent, or officer thereof, shall require any employee or applicant for employment to

1 agree, in writing, to any term or condition which is known by such employer, or agent,
2 manager, superintendent, or officer thereof to be prohibited by law.”

3 116. Defendants also violated Labor Code section 432.5 because they require their
4 employees, including Plaintiff and the Represented Employees, to agree, in writing, to terms
5 and conditions which are known by Defendant to be prohibited by law. Specifically, these
6 include, but are not limited to terms and conditions that are contrary to California public
7 policy, such as noncompete agreements, covenants against competition, non-solicitation
8 clauses, etc.

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

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

16 119. Plaintiff is seeking penalties against Defendants under Labor Code section
17 2699(f) and any other applicable statute allowing recovery of penalties under PAGA on
18 behalf of herself and the Represented Employees as alleged herein in an amount to be shown
19 according to proof.

20 120. Pursuant to PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
21 attorney’s fees, costs, filing fees paid to the LWDA and civil penalties as alleged herein in
22 an amount to be shown according to proof.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

- 25 1. An award of civil penalties pursuant to PAGA and/or other applicable laws;
- 26 2. An award of reasonable attorneys’ fees, costs, and filing fees paid to the LWDA
27 pursuant to California Labor Code section 2699(g) and/or other applicable law;
- 28 3. An award of reasonable attorneys’ fees and costs pursuant to the California Labor
Code and/or other applicable law;
4. Post-judgment interest as provided by law; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. Such other and further relief that the Court may deem just and proper.

Dated: October 8, 2020

MASHIRI LAW FIRM
A Professional Corporation

By: 
Alex Asil Mashiri
Attorney for Plaintiff
DUNIA MEDINA TORRES