

Larry W. Lee (State Bar No. 228175)
Max W. Gavron (State Bar No. 291697)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder, Esq. (State Bar No. 170131)
Polaris Law Group LLP
501 San Benito Street, Suite 200
Hollister, CA 95023
Tel: (831) 531-4214
Fax: (831) 634-0333

Attorneys for Plaintiff and the Class

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Superior Court of California
County of Riverside
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

TERRANCE CLAYBORN, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

AMAZON.COM SERVICES INC.;
AMAZON.COM SERVICES LLC, a
Delaware limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.:

**CLASS ACTION COMPLAINT FOR
DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE §§ 226.7
AND 512;**
- (2) VIOLATION OF LABOR CODE § 226;**
- (3) VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200, *ET SEQ.*;
AND**
- (4) VIOLATION OF LABOR CODE § 2698,
*ET SEQ.***

DEMAND OVER \$25,000.00

1 Plaintiff Terrance Clayborn (“Plaintiff”), hereby submits this Class Action Complaint
2 against Defendants Amazon.com Services LLC, Amazon.com Services Inc., and Does 1-50
3 (hereinafter collectively referred to as “Defendant” or “Defendants”), as an individual and on
4 behalf of the Class of all other similarly situated current and former employees of Defendants for
5 penalties and/or damages for failure to properly calculate the regular rate of pay for purposes of
6 paying meal period premiums and provide accurate itemized wage statements under California
7 Labor Code statutes, restitution for unfair business practices in violation of Business and
8 Professions Code § 17200, *et seq.*, and violation of the California Private Attorneys General Act
9 (“PAGA”), as follows:

10 **INTRODUCTION**

11 1. This class action is within the Court’s jurisdiction under California Labor Code
12 §§ 201-203, 226, 226.7, 512, and 2698 *et seq.*, the California Industrial Welfare Commission’s
13 (“IWC”) Wage Orders, and the California Unfair Competition Law (the “UCL”), codified at
14 California Business and Professions Code § 17200, *et seq.*

15 2. This Complaint challenges systemic illegal employment practices resulting in
16 violations of the California Labor Code and Business and Professions Code against employees of
17 Defendants.

18 3. Plaintiff is informed and believes and based thereon alleges that Defendants
19 jointly and severally have acted intentionally and with deliberate indifference and conscious
20 disregard to the rights of all employees by failing to properly calculate the regular rate of pay for
21 purposes of paying meal period premiums and provide accurate itemized wage statements to
22 Plaintiff and the Class.

23 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
24 engaged in, among other things a system of willful violations of the California Labor Code,
25 Business and Professions Code and applicable IWC Wage Orders by creating and maintaining
26 policies, practices, and customs that knowingly deny employees the above stated rights and
27 benefits.

28 5. The policies, practices, and customs of Defendants described above and below

1 have resulted in unjust enrichment of Defendants and an unfair business advantage over
2 businesses that routinely adhere to the strictures of the California Labor Code and the California
3 Business and Professions Code.

4 **JURISDICTION AND VENUE**

5 6. The Court has jurisdiction over the violations of the California Labor Code
6 §§ 201-203, 226, 226.7, 512, and 2698 *et seq.*, and the UCL.

7 7. Venue is proper in Riverside County because Defendants maintain business
8 locations in Riverside County, and Plaintiff performed work for Defendants in Moreno Valley,
9 California.

10 **PARTIES**

11 8. Plaintiff Terrance Clayborn was hired by Defendants as an Inbound Dock Worker
12 on about April 1, 2020. Plaintiff worked as a non-exempt employee. On or about July 13, 2020,
13 Plaintiff was terminated from employment.

14 9. Plaintiff was and is the victim of the policies, practices, and customs of
15 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
16 by California Labor Code §§ 201-203, 226, 226.7, 512, and 2698 *et seq.*, and the applicable IWC
17 Wage Orders, and the UCL.

18 10. Plaintiff is informed and believes and based thereon alleges that Defendant
19 Amazon.com Services LLC was and is a Delaware limited liability company doing business in
20 the State of California and County of Riverside as an online retailer and delivery service for
21 goods.

22 11. Plaintiff is informed and believes and based thereon alleges that Defendant
23 Amazon.com Services Inc. is not an active corporation in California.

24 12. Plaintiff is informed and believes and based thereon alleges that at all times herein
25 mentioned Defendant and Does 1 through 50 are and were business entities, individuals, and
26 partnerships, licensed to do business and actually doing business in the State of California.

27 13. As such, and based upon all the facts and circumstances incident to Defendants'
28 business in California, Defendants are subject to California Labor Code §§ 201-203, 226, 226.7,

1 512, and 2698 *et seq.*, the IWC Wage Orders, and the UCL.

2 14. Plaintiff does not know the true names or capacities, whether individual, partner
3 or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason,
4 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
5 complaint when the true names and capacities are known. Plaintiff is informed and believes and
6 based thereon alleges that each of said fictitious Defendants were responsible in some way for
7 the matters alleged herein and proximately caused Plaintiff and members of the general public
8 and Class to be subject to the illegal employment practices, wrongs, and injuries complained of
9 herein.

10 15. At all times herein mentioned, each of said Defendants participated in the doing
11 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
12 Defendants, and each of them, were the agents, servants and employees of each of the other
13 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
14 acting within the course and scope of said agency and employment.

15 16. Plaintiff is informed and believes and based thereon alleges that at all times
16 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
17 joint venturer of, or working in concert with each of the other co-defendants and was acting
18 within the course and scope of such agency, employment, joint venture, or concerted activity.
19 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
20 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
21 Defendants.

22 17. At all times herein mentioned, Defendants, and each of them, were members of,
23 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
24 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

25 18. At all times herein mentioned, the acts and omissions of various Defendants, and
26 each of them, concurred and contributed to the various acts and omissions of each and all of the
27 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
28 herein mentioned, Defendants, and each of them, ratified each and every act or omission

complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

CLASS ACTION ALLEGATIONS

19. **Definition:** The named individual Plaintiff seek class certification, pursuant to California Code of Civil Procedure § 382, of the following classes (collectively, “Class”):

- a. All current and former non-exempt employees of Defendants in the State of California who worked 5 hours or more in any shift and were paid non-discretionary remuneration and their base hourly rate during the same workweek, at any time from April 6, 2016, through the present (“Meal Period Class”); and
- b. All current and former employees of Defendants in the State of California who were issued wage statements identifying Amazon.com Services, Inc. as the employer at any time from April 6, 2019, through the present (“Wage Statement Class”).

20. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff alleges that Defendants: (a) failed to pay employees meal period premiums at the correct regular rate of pay that included all non-discretionary remuneration, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failed to provide accurate itemized wage statements, in violation of Labor Code § 226; and (c) engaged in Unfair Business Practices in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

21. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in

1 California courts.

2 22. Defendants uniformly administered a corporate policy, practice of: (a) failing to
3 pay employees meal period premiums at the correct regular rate of pay that included all non-
4 discretionary remuneration, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failing to
5 provide accurate itemized wage statements, in violation of Labor Code § 226; and (c) engaging
6 in Unfair Business Practices in violation of the UCL, the California Labor Code, and the
7 applicable IWC Wage Orders.

8 23. Plaintiff is informed and believes and based thereon alleges that Defendants had a
9 consistent and uniform policy, practice, and procedure of willfully failing to comply with Labor
10 Code §§ 201-203, 226, 226.7, and 512, the UCL, and applicable IWC Wage Orders.

11 24. **Common Question of Law and Fact:** There are predominant common questions
12 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
13 concerning Defendants: (a) failing to pay employees meal period premiums at the correct
14 regular rate of pay that included all non-discretionary remuneration, in violation of Labor Code
15 §§ 201-203, 226.7, and 512; (b) failing to provide accurate itemized wage statements, in
16 violation of Labor Code § 226; and (c) engaging in Unfair Business Practices in violation of the
17 UCL, the California Labor Code, and the applicable IWC Wage Orders.

18 25. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
19 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical
20 manner as the Class members. As with other California employees, Plaintiff earned non-
21 discretionary remuneration, including without limitation, shift differential wages. Plaintiff also
22 regularly worked more than 5 hours in a shift but was not provided timely and off-duty meal
23 breaks of at least 30 minutes. In lieu of receiving these meal breaks, Defendants paid Plaintiff
24 meal period premiums calculated at one hour of Plaintiff's base rate of pay for each missed or
25 late meal break. However, the meal period premiums should have been calculated at Plaintiff's
26 regular rate of pay, incorporating all non-discretionary remuneration earned into the calculation
27 of the regular rate. Thus, Plaintiff is owed additional meal period premium pay based on the
28 correct, higher regular rate of pay. To date, Plaintiff has yet to receive the underpaid meal period

premium wages owed. Thus, Defendants are liable for waiting time penalties under Labor Code § 203. Furthermore, Defendants issued defective wage statements to Plaintiff. Specifically, Plaintiff's wage statements identified the employer as "Amazon.com Services Inc.," which is not registered to do business in California, nor, on information and belief, did Defendants register it as a fictitious business name. As such, Plaintiff is a member of the Class and has suffered the alleged violations of California Labor Code §§ 201-203, 226, 226.7, and 512, and the applicable IWC Wage Orders.

26. The California Labor Code and upon which Plaintiff base these claims is broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

27. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format a particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual plaintiff with Defendants' vastly superior financial and legal resources. Requiring each Class member to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

28. The prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class members against Defendants and which would establish potentially incompatible standards of conduct for Defendants, and/or (b) adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interest of the

1 other Class members not parties to the adjudications or which would substantially impair or
2 impede the ability of the Class members to protect their interests. Further, the claims of the
3 individual members of the Class are not sufficiently large to warrant vigorous individual
4 prosecution considering all of the concomitant costs and expenses.

5 29. Such a pattern, practice and uniform administration of corporate policy regarding
6 illegal employee compensation described herein is unlawful and creates an entitlement to
7 recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
8 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
9 according to the mandate of California Labor Code §§ 201-203 and 218.5, the applicable IWC
10 Wage Orders, and Code of Civil Procedure § 1021.5.

11 30. Proof of a common business practice or factual pattern, which the named Plaintiff
12 experienced and is a representative of, will establish the right of each of the members of the
13 Class to recovery on the causes of action alleged herein.

14 31. The Class is commonly entitled to a specific fund with respect to the
15 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
16 restitution of those funds being improperly withheld by Defendants. This action is brought for
17 the benefit of the entire class and will result in the creation of a common fund.

18 **FIRST CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE §§ 226.7 AND 512**

20 **(BY PLAINTIFF AND THE MEAL PERIOD CLASS AGAINST ALL DEFENDANTS)**

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

23 33. At all relevant times, Defendants failed in their affirmative obligation to ensure
24 that Plaintiff and Class members, had the opportunity to take and were provided with off-duty
25 meal periods in accordance with the mandates of the California Labor Code and the applicable
26 IWC Wage Order. At all relevant times, Plaintiff and Class members were suffered and
27 permitted to work through legally required meal breaks and were denied the opportunity to take
28 their off-duty meal breaks. As such, Defendants are responsible for paying premium

1 compensation for missed meal periods pursuant to Labor Code § 226.7 and the applicable IWC
2 Wage Order. Defendants, as a matter of corporate policy and procedure, failed to pay such
3 premium compensation at the correct, regular rate of pay for each meal period Plaintiff and the
4 Class members missed.

5 34. Specifically, Labor Code § 226.7(c) states that “the employer shall pay the
6 employee one additional hour of pay at the employee’s regular rate of compensation for each
7 workday that the meal or rest or recovery period is not provided.” Throughout their
8 employment, Plaintiff and Class members earned non-discretionary remuneration, including shift
9 differential wages. Such non-discretionary forms of remuneration, however, were not included
10 in the regular rate of pay for purposes of paying meal period premium pay. Instead, the meal
11 period premium was paid at the base rate of pay. As such, Plaintiff and Class members are owed
12 additional meal period premium pay.

13 35. At all relevant times, Plaintiff and Class members regularly worked in excess of
14 five (5) hours per day and accordingly had a right to take a 30-minute meal period each day
15 worked in excess of five (5) hours.

16 36. Such a pattern, practice, and uniform administration of corporate policy as
17 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class
18 members identified herein, in a civil action, for the unpaid balance of the unpaid premium
19 compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order,
20 including interest thereon, penalties, and costs of suit.

21 37. Plaintiff is informed and believe, and based thereon allege, that Defendants’
22 willful failure to provide all meal period premium wages due and owing to Plaintiff and Class
23 members upon separation from employment results in a continued payment of wages up to thirty
24 (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class
25 who have separated from employment are entitled to compensation pursuant to Labor Code
26 § 203.

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1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 226**

3 **(BY PLAINTIFF, THE MEAL PERIOD CLASS AND THE WAGE STATEMENT**

4 **CLASS AGAINST ALL DEFENDANTS)**

5 38. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
6 though fully set forth herein.

7 39. Defendants failed in its affirmative obligation to provide accurate itemized wage
8 statements. Defendants, as a matter of policy and practice, did not provide accurate records in
9 violation of Labor Code § 226(a) by failing to provide accurate payroll records for Plaintiff and
10 the Class.

11 40. As a result of the afore-referenced violations of Labor Code §§ 226.7 and 512, the
12 wage statements issued to Plaintiff and the Meal Period Class failed to accurately identify the
13 applicable rates of pay and the gross/net wages earned, in violation of Labor Code § 226.

14 41. In addition, and as a wholly separate violation, the wage statements Defendants
15 issued to Plaintiff and the Wage Statement Class failed to include the legal name of the employer
16 in violation of Labor Code § 226(a)(8). Instead, the wage statements provided to Plaintiff and
17 the Wage Statement Class listed the employer as “Amazon.com Services, Inc.” which is not an
18 active corporation in California. On information and belief, Defendants did not register this
19 name as a fictitious business name either.

20 42. Such a pattern, practice and uniform administration of corporate policy as
21 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
22 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
23 including interest thereon, attorneys’ fees, and costs of suit according to the mandate of
24 California Labor Code § 226.

25 **THIRD CAUSE OF ACTION**

26 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

27 **(BY PLAINTIFF AND THE MEAL PERIOD CLASS AGAINST ALL DEFENDANTS)**

28 43. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as

1 though fully set forth herein.

2 44. Defendants, and each of them, have engaged and continue to engage in unfair and
3 unlawful business practices in California by practicing, employing and utilizing the employment
4 practices outlined above, include, to wit, by failing to pay employees meal period premiums at
5 the correct regular rate of pay that included all non-discretionary remuneration, in violation of
6 Labor Code §§ 201-203, 226.7, and 512.

7 45. Plaintiff seeks, individually and on behalf of other members of the Class similarly
8 situated, full restitution of monies, as necessary and according to proof, to restore any and all
9 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
10 complained of herein.

11 46. Plaintiff is informed and believes, and based thereon alleges, that at all times
12 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,
13 as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set
14 forth herein above thereby depriving Plaintiff and other members of the Class the minimum
15 working condition standards and conditions due to them under the California laws and the
16 applicable IWC Wage Orders as specifically described therein.

17 **FOURTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

19 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
20 **AGAINST ALL DEFENDANTS)**

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

23 48. Plaintiff bring this cause of action as a proxy for the State of California and in this
24 capacity, seek penalties on behalf of all Aggrieved Employees from April 6, 2019, through the
25 present, for Defendants' violations of Labor Code §§ 201-203, 226, 226.7, and 512, arising from
26 Defendants' failure to properly calculate the regular rate of pay for purposes of paying meal
27 period premiums and provide accurate itemized wage statements.

28 49. On or about August 4, 2020, Plaintiff sent written notice to the California Labor

1 & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code §§ 201-
2 203, 226, 226.7, and 512, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General
3 Act (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written notice.

4 50. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
5 applicable civil penalties for Defendants’ violation of Labor Code §§ 201-203, 226, 226.7, and
6 512, for the time period described above, on behalf of himself and other Aggrieved Employees.

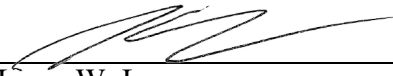
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgment as an individual and on behalf of all others
9 that this suit is brought against Defendants, jointly and severally, as follows:

- 10 1. For an order certifying the proposed Class;
 - 11 2. For an order appointing Plaintiff as the representative of the Class as described
12 herein;
 - 13 3. For an order appointing counsel for Plaintiff as Class counsel;
 - 14 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
15 California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys’ fees;
 - 16 5. Upon the Second Cause of Action, penalties pursuant to California Labor Code
17 § 226, and for costs and attorneys’ fees;
 - 18 6. Upon the Third Cause of Action, for restitution to Plaintiff and other similarly
19 situated members of the general public of all funds unlawfully acquired by Defendants by means
20 of any acts or practices declared by this Court to be in violation of Business and Professions
21 Code § 17200, *et seq.*, for the time periods described above;
 - 22 7. Upon the Fourth Cause of Action, for civil penalties according to proof pursuant
23 to Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys’ fees;
 - 24 8. On all causes of action, for attorneys’ fees and costs as provided by California
25 Labor Code §§ 218.5, 226, and 2699 and Code of Civil Procedure § 1021.5; and
 - 26 9. For such other and further relief as the Court may deem just and proper.
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1 DATED: September 25, 2020

DIVERSITY LAW GROUP, P.C.

2
3 By: 

Larry W. Lee

4 Max W. Gavron

5 Attorneys for Plaintiff and the Class
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