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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

SATWINDER DHALIWAL, an individual, on
behalf of the State of California, as a private
attorney general, and on behalf of all Aggrieved
Employees,

PLAINTIFF,

v.

ORACLE AMERICA, INC., a Delaware
Corporation; DOES 1 to 50, inclusive,

DEFENDANTS.

CASE NO. **34-2021-00300059**

**PAGA REPRESENTATIVE ACTION
COMPLAINT FOR:**

**PENALTIES PURSUANT TO LABOR
CODE § 2699, ET SEQ. FOR
VIOLATIONS OF CALIFORNIA LABOR
CODE §§ 201, 202, 203, 226, 226.7, 510,
512, 1194, 1194.2, 1197, 1197.1, 1199, AND
2802, AS WELL AS IWC WAGE ORDER
NO. 4-2001**

BY FAX

1 Plaintiff SATWINDER DHALIWAL (“Plaintiff”), on behalf of the people of the State of
2 California and as an “Aggrieved Employee” acting as a private attorney general under the Labor
3 Code Private Attorneys General Act of 2004, § 2699, *et seq.* (“PAGA”) complains of Defendants
4 ORACLE AMERICA, INC. and DOES 1 to 50 (collectively, “Defendants” or “Oracle”) and each
5 of them, and alleges the following upon information and belief:

6 **INTRODUCTION**

7 1. This is a representative action brought pursuant to Labor Code § 2699, *et seq.*, on
8 behalf of the State of California and the group of Aggrieved Employees defined as follows:

9 **The “Aggrieved Employees”:**

10 Plaintiff and all other California residents who are or were employed by Defendant Oracle
11 America, Inc. for at least one pay period during the time period from January 6, 2020 to
the present and ongoing and ongoing (the “PAGA Period”);

12 2. Plaintiff, on behalf of himself and all Aggrieved Employees presently or formerly
13 employed by Defendants during the PAGA Period, brings this representative action pursuant to
14 Labor Code § 2699, *et seq.* seeking penalties for Defendants’ violation of California Labor Code §§
15 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197. 1197.1, 1199, 2802, as well as IWC Wage
16 Order No. 4-2001. Based upon the foregoing, Plaintiff and all Aggrieved Employees are Aggrieved
17 Employees within the meaning of Labor Code §2699, *et seq.*

18 **THE PARTIES**

19 3. Plaintiff Satwinder Dhaliwal is a resident of California and at all times pertinent
20 hereto worked for Defendants as a Payroll Analyst 2-Fin. Plaintiff’s job duties included, among
21 other things, assisting in the preparation of employee semi-monthly payroll; analyzing, verifying,
22 and inputting payroll data; managing daily payment processing runs, terminations, garnishments,
23 leave of absence pay, and escheatment process; processing daily ISO, NQ, RSU stock files and
24 monthly ESPP DQ’s; reconciling and preparing semi-monthly vendor wires for payroll deductions;
25 managing daily banking tasks; managing overpayment process; processing employees withholding
26 allowance certificates; processing pay history requests; researching vacation and timecard inquiries;
27 processing W-2 copy requests; and participating in payroll system upgrades and implementations.
28

1 While employed by Defendants, Plaintiff resided at 10529 Raptor Court, Elk Grove, California
2 95757. During the stay-at-home orders and while Defendants' offices were closed, Plaintiff worked
3 remotely from his home address in California. On information and belief, the vast majority, if not
4 all, of the Aggrieved Employees also worked from home while residing in California during the
5 stay and home orders and while Defendants' offices were closed.

6 4. Plaintiff and all Aggrieved Employees are, and at all times pertinent hereto, have
7 been classified as non-exempt employees by Defendants, and have been hired to work for
8 Defendants in California.

9 5. Oracle is an American multinational computer technology company based in Austin,
10 Texas. Defendants employed Plaintiff and similarly situated persons as employees within
11 California. Defendants have done and do business throughout the State of California including in
12 Sacramento County.

13 6. The true names and capacities, whether individual, corporate, associate, or
14 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
15 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure §
16 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
17 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to
18 herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
19 capacities of the Defendants designated hereinafter as DOES when such identities become known.

20 7. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
21 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
22 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
23 legally attributable to the other Defendants. Accordingly, all Defendants engaged, suffered and
24 permitted Plaintiff and all other Aggrieved Employees to perform services from which they
25 benefitted. Moreover, the aforementioned entities had the right to exercise control over the wages,
26 hours and/or working conditions over Plaintiff and all Aggrieved Employees at all relevant times
27 herein, so as to be considered the joint employers of all of the Aggrieved Employees. By reason of
28 their status as joint employers, they are each liable for civil penalties for violation of the California

1 Labor Code as to the Plaintiff and other Aggrieved Employees as set forth herein.

2 **JURISDICTION AND VENUE**

3 8. This Court has subject matter jurisdiction over any and all causes of action asserted
4 herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil
5 Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy,
6 exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the
7 laws of the State of California or is subject to adjudication in the courts of the State of California.

8 9. This Court has personal jurisdiction over Defendants because Defendants have
9 caused injuries in the County of Sacramento and State of California through their acts, and by their
10 violation of the California Labor Code and California state common law.

11 10. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
12 Civil Procedure § 395. Defendants operate within California and does business within Sacramento
13 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all
14 “employees” within the State of California and Sacramento County.

15 11. Further, to the extent that Defendants may claim that Plaintiff has signed an
16 arbitration agreement, venue is still appropriate in the Superior Court of Sacramento County as
17 PAGA claims are not arbitrable as a matter of law. *See, Iskanian v. CLS Transp. Los Angeles, LLC*,
18 59 Cal. 4th 348, 383 (2014) (holding “a PAGA claim lies outside the FAA’s coverage because it is
19 not a dispute between an employer and an employee arising out of their contractual relationship. It
20 is a dispute between an employer and the *state*”).

21 **COMMON ALLEGATIONS**

22 12. From at least March 15, 2020 and continuing into until November 2020 (when
23 Defendants began providing a per month stipend prospectively for its California resident
24 employees’ home office expenses¹), during which time various work from home orders were in
25 effect², Plaintiff and the aggrieved employees, at the direction of Defendants and/or with
26 Defendants’ knowledge and acquiescence, have incurred home office expenses including, among

27 ¹ Attached hereto as **Exhibit A** is Defendant’s Home Communications Expense Eligibility Approval with a November
1, 2020 Effective Date.

28 ² On March 15, 2020, California Governor Gavin Newsom issued a directive to fight COVID-19, Execute Order N-27-
20 which can be found here: [gov.ca.gov/wp-content/uploads/2020/03/3.15.2020-COVID-19-Facilities.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.15.2020-COVID-19-Facilities.pdf).

1 other things, home internet expenses, equipment expenses, electricity and home office
2 infrastructure expenses in order to perform necessary work-related duties.

3 13. Plaintiff, who was employed in California by Oracle America, Inc. and was assigned
4 to work on job assignments for Oracle America, Inc., was not able to work on premises at
5 Defendants' offices, but instead was required to, and did, work from home, like the other aggrieved
6 employees. To be clear, Oracle America, Inc. sent their employees home to work from home
7 during the period from March 15, 2020 to the present without affirmatively reimbursing them for a
8 reasonable portion of their monthly home internet expenses until Defendants' policy change in
9 November 2020. Furthermore, Defendants' policy change was prospective only for 99% of its
10 California employees, since claims for reimbursement made by such employees for expenses
11 incurred between March 15, 2020 and November 2020 have been rejected.³ Attached hereto as
12 **Exhibit B** is the language from one of Defendants' rejection form letters that rejected a claim for
13 reimbursement by one aggrieved employee.

14 14. During the COVID 19 stay at home orders in place during the PAGA Period,
15 Plaintiff and the aggrieved employees were expected by Defendants to pay for, and have personally
16 paid for, among other things, home internet service, electricity, an allocated portion of their home
17 office space, in the discharge of their job duties (the "home office expenses"). These home office
18 expenses were required and necessary for work to be performed. These home internet and home
19 office expenses ranged, but typically amounted to \$50 to \$200 per month (or more) per aggrieved
20 employee.

21 15. Until November 2020, Defendants had no policy to affirmatively reimburse all of
22 their employees who were forced to work from home during the COVID 19 pandemic for a
23 reasonable portion of their home internet and home office expenses. In sum, Defendants' expense-

24 ³ While 99% of Defendants' employees in California were not retroactively reimbursed for expenses incurred between
25 March 15, 2020 and November 2020, Plaintiff and several other aggrieved employees were retroactively reimbursed in
26 or around November 2020. This reimbursement was not timely and, in any event, Plaintiff still has standing to pursue
27 PAGA penalties on behalf of all of the other aggrieved employees who did not receive timely reimbursement or any
28 retroactive reimbursement for monthly home internet expenses incurred during the pandemic. . See *Huff v. Securitas
Security Services USA, Inc.*, 23 Cal.App.5th 745, 750 (2018) (explaining that there is no typicality requirement in a
PAGA action because "PAGA allows an 'aggrieved employee'—a person affected by *at least one* Labor Code
violation committed by an employer—to pursue PAGA penalties for the Labor Code violations committed by that
employer.") (emphasis added).

1 related policies and/or practices required and expected, and/or with Defendants' knowledge thereof
2 permitted, Plaintiff and the aggrieved employees to pay for home internet and home office
3 infrastructure expenses incurred in direct consequence of discharging his and their necessary,
4 reasonable and business-related job duties on behalf of Defendants, without reimbursement in full
5 by Defendant for such expenses, as required by California law until November 2020 (and only
6 prospectively for virtually all employees).

7 16. California Labor Code section 2802 requires an employer to "indemnify his or her
8 employee for all necessary expenditures or losses incurred by that employee in direct consequence
9 of the discharge of his or her duties." See Cal. Labor Code section 2802(a); *see also* 2802(c) where
10 necessary is defined to include all "reasonable" costs. "The elements of a claim under Section
11 2802 are: (i) the employee made expenditures or incurred losses; (ii) the expenditures or losses
12 were incurred in direct consequence of the employee's discharge of his or her duties, or obedience
13 to the directions of the employer; and (iii) the expenditures or losses were reasonable and
14 necessary." *Marr v. Bank of America*, 2011 U.S. Dist. LEXIS 24868 (N.D. March 8,
15 2011) (*citing Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007)). "In addition, the
16 employer 'must either know or have reason to know that the employee has incurred [the] expense.'" *Id.* (*citing Stuart v. RadioShack Corp.*, 641 F.Supp. 2d 901 (N.D.Cal. 2009)). Where an employer
17 has knowledge that employees are incurring a reimbursable expense, the employer must "exercise
18 due diligence to ensure each employee is reimbursed." *Marr*, at *1. The right of an employee to
19 expense reimbursements is not waivable. *See* Cal. Labor Code sections 2804 and 219(a). Any
20 contract to waive them is null and void. *Edwards v. Arthur Anderson*, 44 Cal. 4th 937, 951 (2008).

22 17. Furthermore, under Labor Code section 2802, employers must reimburse employees
23 for all necessary and/or reasonable work-related expenses, regardless of whether or not the
24 employees incurred any additional out-of-pocket expense from that work-related use. *See, Cochran*
25 *v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (Cal. Aug. 12, 2014) ("We hold that when
26 employees must use their personal cell phones for work-related calls, Labor Code section 2802
27 requires the employer to reimburse them. Whether the employees have cell phone plans with
28 unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their

1 cell phone bills.”).

2 18. Where, as here, employees in California are expected or mandated to use their
3 internet at home for work, courts have held that they incurred home internet expenses in “direct
4 consequence of the discharge of his or her duties” and were entitled to reimbursement. *See Aguilar*
5 *v. Zep, Inc.*, 2014 US Dist LEXIS 120315, *54 (N.D.Cal. Aug. 27, 2014) (Hon. Edward Chen)
6 (where outside sales reps used home internet and computers for work, and even admitted that they
7 would have incurred the same expenses without work duties, the court nevertheless held that the
8 employer was obligated to reimburse some reasonable portion of these expenses); see also *Ritchie*
9 *v. Blue Shield of California*, 2014 WL 6982943, at *21 (N.D.Cal. Dec. 9, 2014) (Hon. Edward
10 Chen) (certifying class of home office claims processors with 2802 phone reimbursement claims
11 for landline reimbursements where company required claims processors working from home to
12 have a landline, but rejecting certification of claims for home office supplies as individualized).

13 19. Prior to November 2020, Defendants were aware or should have been aware that
14 Plaintiff and the aggrieved employees regularly incurred home office internet and infrastructure
15 expenses in the discharge of their duties as employees by virtue of Defendants’ instructions to
16 Plaintiff and the aggrieved employees during the pandemic to work from home. From March 15,
17 2020 to November 2020, Defendants failed and refused to affirmatively reimburse Plaintiff and the
18 aggrieved employees for a reasonable portion of such home office expenses incurred by them in
19 connection with their work.

20 20. Labor Code § 1197 states the California requirement that employees must be paid at
21 least the minimum wage fixed by the Commission or by any applicable state or local law, and any
22 payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles “any
23 employee receiving less than the legal minimum wage...to recover in a civil action the unpaid
24 balance of the full amount of this minimum wage.” IWC Wage Order No. 4-2001 obligates
25 employers to pay each employee minimum wages for all hours worked.

26 21. These minimum wage standards apply to each hour employees worked for which
27 they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked
28 by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid

1 or not, results in an average hourly wage above minimum wage. *Armenta*, 135 Cal.App.4th at 324.

2 22. Defendants required Plaintiff and some others of the aggrieved employees to
3 regularly perform work-off-the-clock for which they did not receive any compensation. As part of
4 their employment, Defendants required Plaintiff and some others of the aggrieved employees to
5 remain “on-call” after their scheduled 8-hour shifts ended in the event that Defendants needed
6 additional work performed. Through this policy, Defendants violated Labor Code § 1194 by failing
7 to compensate Plaintiff and the aggrieved employees, for this “on-call” time. *See, Berry v. County*
8 *of Sonoma*, 30 F.3d 1174 (9th Cir. 1194) (Courts examine several factors in evaluating whether on-
9 call time is compensable, including (1) geographical limitations on the employee’s movement; (2)
10 frequency of calls; (3) whether there is a required response time; (4) whether the employee can
11 trade his time with another employee; and (5) the extent of personal activities engaged in during on-
12 call time.); *see, also*, DLSE Manual, 47.5.5.1 and 47.5.6.1.

13 23. Accordingly, Plaintiff is an aggrieved employee within the meaning PAGA, and
14 Defendants has violated Labor Code §§ 1194 and 1197 with respect to Plaintiff and the Aggrieved
15 Employees.

16 24. Labor Code § 1197.1 authorizes employees who are paid less than the minimum
17 fixed by an applicable state or local law, or by an order of the commission a civil penalty,
18 restitution of wages, and liquidate damages as follows: (1) for any initial violation that is
19 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
20 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the
21 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
22 period for which the employee is underpaid regardless of whether the initial violation is
23 intentionally committed. As set forth above, Defendants failed to compensate Plaintiff and the
24 aggrieved employees for all hours worked. Accordingly, through PAGA and to the extent permitted
25 by law Plaintiff and aggrieved employees are entitled to recover liquidated damages for violations
26 of Labor Code § 1197.1. Based upon these same factual allegations, Plaintiff and aggrieved
27 employees are entitled to penalties under Labor Code § 1199.

28 25. Similarly, Labor Code § 1194.2 authorizes employees to recover wages to recover

1 liquidated damages for violations of Labor Code § 1194. Where an employee, as Plaintiff, and
2 aggrieved employees, experienced on a regular basis, are not paid for all hours worked under Labor
3 Code § 1194, the employees may recover minimum wages for the time for which they received no
4 compensation.

5 26. Labor Code § 510 requires an employer to compensate an employee who works
6 more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8)
7 hours worked on the seventh consecutive day no less than one and one-half times the regular rate of
8 pay for an employee. Further, Labor Code § 510 obligates employers to compensate employees at
9 no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a
10 day or more than eight (8) hours on the seventh consecutive day of work. In accordance with Labor
11 Code § 1194, Plaintiff and the aggrieved employees could not agree to work for a lesser wage.

12 27. As discussed in detail above, Defendants required Plaintiff and some of the
13 aggrieved employees to remain on-call without receiving any compensation from Defendants.
14 Through this policy and practice, Defendants violated Labor Code §§ 1194 and 510 when Plaintiff
15 and these aggrieved employees' on-call time resulted in working hours of more than eight in one
16 day or forty hours in a work week.

17 28. Based upon the foregoing, Plaintiff alleges that Defendants had a uniform and
18 consistent policy of failing to pay wages and/or overtime and at the proper amounts to Plaintiff and
19 some of the aggrieved employees when their on-call work time was over that of eight hours in a
20 workday or forty hours in a workweek. This on-call time can be ascertained from time records
21 where Plaintiff and other Aggrieved Employees were brought back for "extra work", which was
22 paid at an overtime rate, after the waiting time at home where he and they waited for texts to advise
23 them if they needed to continue working after the 8th hour of their shifts.

24 29. Labor Code § 1197.1 authorizes employees who are paid less than the minimum
25 fixed by an applicable state or local law, or by an order of the commission a civil penalty,
26 restitution of wages, and liquidate damages as follows: (1) for any initial violation that is
27 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
28 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the

1 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
2 period for which the employee is underpaid regardless of whether the initial violation is
3 intentionally committed. As set forth above, Defendants failed to compensate Plaintiff and the
4 aggrieved employees for all minimum wage and overtime wages due for “on call” time
5 Accordingly, through PAGA and to the extent permitted by law Plaintiff and all aggrieved
6 employees are entitled to recover liquidated damages for violations of Labor Code § 1197.1. Based
7 upon these same factual allegations, Plaintiff and the other aggrieved employees are entitled to
8 penalties under Labor Code § 1199.

9 30. Similarly, Labor Code § 1194.2 authorizes employees to recover wages as liquidated
10 damages for violations of Labor Code § 1194. Where an employee, as Plaintiff is not paid for all
11 hours worked under Labor Code § 1194, the employee may recover minimum wages for the time
12 associated with the overtime for which they received no compensation. *See Sillah v. Command Int'l*
13 *Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (finding that employees suing for failure to pay
14 overtime could recover liquidated damages under § 1194.2 if they also showed they were paid less
15 than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, No. 15-cv-03175 NC, 2016 U.S.
16 Dist. LEXIS 172319, at *20-21 (N.D. Cal. Dec. 12, 2016). Since Defendant failed to provide
17 Plaintiff and all aggrieved employees with compensation for all hours worked, including overtime
18 hours, each are entitled to recover liquidated damages under Labor Code § 1194.2 through PAGA.
19 Based upon these same factual allegations, Plaintiff is entitled to seek on behalf of all aggrieved
20 employees' penalties under Labor Code § 1199.

21 31. Labor Code § 512 requires employers to provide employees with thirty (30) minute
22 uninterrupted and duty-free meal period *within* the first five (5) hours of work. Moreover, an
23 employee who works more than ten (10) hours per day is entitled to receive a second thirty (30)
24 minute uninterrupted and duty-free meal period. Pursuant to Labor Code § 512, an employer may
25 not employ an employee for a work period of more than ten (10) hours, without providing the
26 employee with a second meal period of not less than thirty (30) minutes. Moreover, the second
27 meal period may not be waived if the total hours worked is more than twelve (12) hours.

28 32. Under Labor Code § 512, if an employer maintains a uniform policy that does not

1 authorize and permit the amount of mealtime called for under the law (as specified in the applicable
2 Wage Order), “it has violated the wage order and is liable.” The *Brinker* Court explained in the
3 context of rest breaks that employer liability attaches from adopting an unlawful policy:

4 An employer is required to authorize and permit the amount of rest break time called for
5 under the wage order for its industry. If it does not—if, for example, it adopts a uniform
6 policy authorizing and permitting only one rest break for employees working a seven-hour
7 shift when two are required—***it has violated the wage order and is liable.***

8 *Brinker Rest. Corp. v. Sup. Ct.*, 53 Cal.4th 1004, 1033 (2012) [emphasis added].

9 33. Following *Brinker*, the Courts of Appeal have confirmed that liability for meal
10 period violations arise when an employer adopts a uniform policy that fails to provide off-duty
11 breaks. For example, in *Faulkinbury vs. Boyd & Associates, Inc.*, the California Court of Appeal
12 explained: “the employer's liability arises by adopting a uniform policy that violates the wage and
13 hour laws. Whether or not the employee was able to take the required break goes to damages”
14 *Ibid.* (citations omitted); *see also Benton v. Telecom Network Specialists, Inc.*, 220 Cal. App. 4th
15 701, 728 (2013).

16 34. In *Alberts v. Aurora Behavioral Health Care*, 241 Cal. App. 4th 388, 410 (2015), the
17 California Court of Appeal held that a meal period policy must specifically advise employees of the
18 proper timing of meal periods. In *Alberts*, the meal break policy stated employees are entitled to “an
19 unpaid thirty-minute break for a meal period, approximately halfway between the beginning and
20 ending of the employee's shift.” *Id.* The court, in accordance with *Brinker*, found the defendant’s
21 meal break policy violated California law because it did not specify “that a meal break be provided
22 during the first five hours of an employee’s shift.” *Id.* (citing *Brinker, supra*, 53 Cal.4th at 1048–
23 1049.⁴ An employee who is not advised of their right to receive proper meal periods cannot waive
24 their meal period. *Brinker* 53 Cal. 4th at 1033 (“No issue of waiver ever arises for a rest break that

25 ⁴ Assuming *arguendo* Defendants had a compliant meal period policy—which it did not—even a formal written policy
26 cannot save an employer where an employer or its supervisory employees interfered with meal periods or created a
27 culture which makes taking a 30-minute break during the day infeasible. (*Chand v. Burlington Coat Factory of*
28 *California, LLC*, No. CV F 13-2008 LJO JLT, 2014 WL 726837, at *5 (E.D. Cal. Feb. 24, 2014) (“The wage orders
and governing statute do not countenance an employer's exerting coercion against the taking of, creating incentives to
forego, or otherwise encouraging the skipping of legally protected breaks.”) (citing *Brinker*, 53 Cal.4th at 1040); *accord*
Boyd v. Bank of Am. Corp. C.D. Cal. May 6, 2015) No. SA CV 13–0056–DOC, 2015 WL 3650207, at *31; *Ricaldai v.*
U.S. Investigations Servs. LLC (C.D. Cal. 2012) 878 F. Supp. 2d 1038, 1045; *Campbell v. Vitran Express Inc.* (C.D.
Cal. Nov. 12, 2015) No. CV 11-5029 RGK (SHX), 2015 WL 7176110, at *8.)

1 was required by law but never authorized; if a break is not authorized, an employee has no
2 opportunity to decline to take it.”); *Bradley*, 211 Cal.App.4th at 1151 (“an employer is obligated to
3 provide the rest and meal breaks, and if an employer does not do so, the fact that an employee did
4 not take the break cannot reasonably be considered a waiver.”).

5 35. Here, Defendants violated Labor Code § 512 by failing to advise Plaintiff and the
6 aggrieved employees of their right to receive thirty (30) minute uninterrupted meal periods *within*
7 the first five (5) hours of the employee’s shift and their right to receive a second meal period on
8 days where they worked more than ten (10) hours a day. As a result, Plaintiff, and aggrieved
9 employees, did not know that they were entitled to take meal periods within the first five (5) hours
10 of their shift. This caused Plaintiff and the aggrieved employees to regularly receive late first meal
11 periods, if any, during their employment with Defendants. Defendants also actively interfered with
12 Plaintiff and the aggrieved employees’ right to receive lawful meal periods. Moreover, Defendants’
13 meal period policies and practices also disincentivized and discouraged Plaintiff and the aggrieved
14 employees from taking lawful meal periods.

15 36. Defendants also failed to pay Plaintiff and the aggrieved employees meal period
16 premiums for each workday that the employees did not receive a compliant meal period. Labor
17 Code § 226.7 provides “an employer shall not require an employee to work during a meal or rest or
18 recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or
19 order of the Industrial Welfare Commission (“IWC”). Similarly, IWC Wage Order No. 4-2001
20 prohibits an employer from “employ[ing] any person for a work period of more than five (5) hours
21 without a meal period of not less than 30 minutes. IWC Wage Order No. 4-2001 further obligates
22 employers to provide an employee to “pay the employee one (1) hour of pay at the employee’s
23 regular rate of compensation for each workday that the meal period is not provided. Accordingly,
24 for each day that Plaintiff and the aggrieved employees did not receive compliant meal periods,
25 they are entitled to receive meal period premiums pursuant to Labor Code § 226.7 and IWC Wage
26 Order No. 4-2001. Unfortunately, Plaintiff and the aggrieved employees were not compensated
27 with one (1) hours’ worth of pay at their regular rate of compensation when they were not provided
28 with a compliant meal period in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001.

1 37. Labor Code § 226.7 provides “an employer shall not require an employee to work
2 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
3 regulation, standard, or order of the Industrial Welfare Commission (“IWC”). Under IWC Wage
4 Order No. 4-2001 an employer must authorize and permit all employees to take ten (10) minute
5 duty free rest periods for every major fraction of four hours worked.

6 38. Pursuant to Labor Code § 226.7 and IWC Wage Order No. 4-2001, Defendants
7 failed to provide Plaintiff and aggrieved employees with duty-free rest periods of not less than ten
8 (10) minutes for every major fraction of four (4) hours worked. Specifically, Defendants failed to
9 have a lawful rest period policy in place that informed Plaintiff and the aggrieved employees of
10 their right to take rest periods for shifts that were a major fraction of a four (4) hour work period
11 and to make rest breaks available to these employees. Instead, Defendants often required Plaintiff
12 and the aggrieved employees to work without lawful rest periods. This includes, but is not limited
13 to, failing to advise Plaintiff and the aggrieved employees of their right to receive a second ten (10)
14 minute rest period when they worked a shift in excess of six (6) hours, but less than eight (8) hours.
15 Defendants regularly and consistently failed to authorize and permit employees to take a second net
16 ten (10) minute duty-free rest period when working shifts in excess of six (6) hours, but less than
17 eight (8) hours. Notably, Defendants also pressured and coerced employees to forgo rest periods
18 and made it difficult for employees to take lawful duty-free rest periods.

19 39. Plaintiff and the aggrieved employees were not compensated with one (1) hours’
20 worth of pay at their regular rate of compensation when they were not provided with a compliant
21 rest period.

22 40. As to Plaintiff and all aggrieved employees, Defendant also failed to provide
23 accurate itemized wage statements in accordance with Labor Code § 226(a)(1, 2, 5, and 9). Labor
24 Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an
25 itemized wage statement in writing showing:

- 26 (1) gross wages earned;
27 (2) total hours worked by the employee;
28 (3) the number of piece-rate units earned and any applicable piece rate if the employee
is paid on a piece rate;
 (4) all deductions, provided that all deductions made on written orders of the employee

- may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) the name and address of the legal entity that is the employer...;
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Similarly, Labor Code § 226(e) provides:

- (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.
- (2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.
(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:
 - (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).
 - (ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).
 - (iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.
 - (iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

41. Due to Defendants' failure to pay Plaintiff and all aggrieved employees all minimum wages and overtime wages owed for on-call time, rest period premiums, and meal period premiums, the wage statements issued by Defendants do not indicate the correct amount of gross wages earned, the total hours worked, the net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Thus, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendants have violated Labor Code §226(a)(1), (2), (5), and (9) with respect to Plaintiff and all aggrieved employees.

42. Plaintiff and the aggrieved employees will prevail on their claim for PAGA penalties under Labor Code § 226(a) without having to show injury or intent. *See Lopez v. Friant & Assocs.*,

1 LLC, 15 Cal.App.5th 773, 788 (2017) (“hold[ing] a plaintiff seeking civil penalties under PAGA for
2 a violation of Labor Code section 226(a) does not have to satisfy the ‘injury’ and ‘knowing and
3 intentional’ requirements of section 226(e)(1).”); *Raines v. Coastal Pacific Food Distributors, Inc.*,
4 23 Cal.App.5th 667, 679 (2018) (finding that the “requirements for a section 226(e) claim do not
5 apply to a PAGA claim for a violation of section 226(a).”).

6 43. In addition to violating Labor Code § 226(a), Defendants also knowingly and
7 intentionally failed to pay Plaintiff and all aggrieved employees minimum and overtime wages
8 owed for on-call time, meal period premiums, and rest periods premiums including at the proper
9 rates. Moreover, Plaintiff and all aggrieved employees also suffered legal “injury” for purposes of
10 Labor Code section 226(e) insofar as they were unable to readily and easily determine from the
11 wage statements themselves the information required to be set forth by Section 226(a), the
12 information provided by Defendants was confusing and inaccurate, Plaintiff, and the aggrieved
13 employees were unable to determine at all the total hours worked by the employee, the gross wages
14 earned, the net wages earned, and all applicable hourly rates in effect during the pay period and the
15 corresponding number of hours worked at each hourly rate by the employee for the reasons
16 discussed above.

17 44. Under Labor Code §§ 201-202, an employer must provide an employee wages at the
18 time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203
19 provides “if an employer willfully fails to pay . . . any wages of an employee who is discharged or
20 who quits, the wages of the employee shall continue as a penalty. . .” for up to 30 days. Lab. Code §
21 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

22 45. As described in detail above, Defendants failed to pay Plaintiff and the aggrieved
23 employees whose employment concluded all minimum wages, overtime wages, meal period
24 premiums, and rest period premiums within the time constraints proscribed in Labor Code §§ 201-
25 202 at the time of their termination/separation. Separate and independent of the foregoing,
26 Defendant also failed to timely pay Plaintiff and the aggrieved employees any wages whatsoever
27 within the time constraints imposed by Labor Code §§ 201-202.

28 ///

FIRST CAUSE OF ACTION
PENALTIES PURSUANT PAGA. LABOR CODE § 2699, *ET SEQ.*
FOR VIOLATIONS OF LABOR CODE § 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197,
1197.1, 1199, and 2802; AS WELL AS IWC WAGE ORDER 4-2001
PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS

46. Plaintiff, on behalf of herself and all Aggrieved Employees, realleges and incorporates by reference all previous paragraphs.

47. Based on the above allegations incorporated by reference, Defendants have violated Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197. 1197.1, 1199, 2802, as well as IWC Wage Order No. 4-2001.

48. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiff and all other Aggrieved Employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

\$100 for the initial violation per employee per pay period; and

\$200 for each subsequent violation per employee per pay period.

49. These penalties shall be allocated seventy-five percent (75%) to the Labor and Workforce Development Agency (LWDA) and twenty-five percent (25%) to the affected employees.

50. Pursuant to Labor Code § 2699.3 (a), on January 6, 2021, Plaintiff gave written notice by certified mail to Defendants, and to the LWDA of his claims for violations of Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197. 1197.1, 1199, 2802, as well as IWC Wage Order No. 4-2001, and theories supporting these claims as alleged herein. As of the date of this Complaint, the LWDA has not responded to Plaintiff's PAGA letter. Accordingly, Plaintiff has fulfilled all administrative prerequisites to the filing and pursuit of her PAGA claims on behalf of himself and all other current and former Aggrieved Employees of Defendants.

51. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code § 2699, et seq. because of Defendants' violation of Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197. 1197.1, 1199, 2802, as well as IWC Wage Order No. 4-2001.

///

1 **RELIEF REQUESTED**

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

3 1. For penalties and other relief allowable under Labor Code § 2699, *et seq.* for
4 Plaintiff and all Aggrieved Employees because of Defendants' violation of, without limitation,
5 Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1199, 2802, as
6 well as IWC Wage Order No. 4-2001;

7 2. A civil penalty against Defendants in the amount of \$100 for the initial violation and
8 \$200 for each subsequent violation as specified in section 2699(f)(2) of the California Labor Code
9 for Plaintiff and all Aggrieved Employees for each and every pay period during that occurred
10 between January 6, 2020, and the present;

11 3. An award of reasonable attorney's fees against Defendants as allowed by law,
12 including without limitation, in Labor Code § 2699(g)(1), for all the work performed by the
13 undersigned counsel in connection with the PAGA claims;

14 4. An award of all costs incurred by the undersigned counsel for Plaintiff in connection
15 with Plaintiff's and the Aggrieved Employees' claims against Defendants as allowed by law,
16 including without limitation, Labor Code § 2699(g)(1);

17 5. Such other and further relief as this Court may deem proper and just.

18
19 Respectfully submitted,

20 ACKERMANN & TILAJEF, P.C.
21 JOSHUA KLUGMAN, ESQ.

22 Dated: May 4, 2021

23 
24 Craig J. Ackermann, Esq.
25 Joshua Klugman, Esq.
26 *Attorneys for Plaintiff and Aggrieved Employees*

EXHIBIT A



Fwd: Fw: Home Communication Expense Eligibility - Approved

----- Forwarded Message -----

From: [REDACTED]
To: [REDACTED]
Sent: Wednesday, December 2, 2020, 12:56:55 PM PST
Subject: Fwd: Home Communication Expense Eligibility - Approved

FYI

Begin forwarded message:

From: [REDACTED]
Date: December 2, 2020 at 12:56:00 PM PST
To: [REDACTED]
Subject: FW: Fwd: Home Communication Expense Eligibility - Approved

----- Forwarded Message -----

Subject: Home Communication Expense Eligibility - Approved

Date:Fri, 2 Oct 2020 16:32:57 GMT

From:hie_do-not-reply@oracle.com

CC:henry.somers@oracle.com



Home Communications Expense Eligibility



Approved for Home Communications Expense	
Action	Approved
Comment	As a permanent FLEX or Remote employee, you are eligible for reimbursement, up to a maximum of \$50 USD or \$60 CAD per month, for work-related home communications/internet expenses. To claim reimbursement, submit expense reports with receipts under the Home/Phone/Fax/Internet (Approval Required) expense type.
Effective Date	NOV-01-2020
Expiration Date	NOV-01-2021
Type	FLEX
Cost Center	5UM1

	US : CA : Santa Monica - 2600 Colorado Account Executive -
Request Type	Home Internet/Broadband
Justification	Looking for internet reimbursement as WFH has become the new normal.

ORACLE CONFIDENTIAL - INTERNAL

Note: This email is for your information only. You are not required to submit a copy of this approval email or the Aria page as a part of your Expense Report Receipt package.

[Legal Notices and Terms of Use](#) | [Privacy Statement](#)

EXHIBIT B

Expense Auditor

10/22/20

EMPLOYEE WRONGLY SELECTED YEAR 2019 INSTATED 2020.

(1). YOU HAVE THE APPROVAL FROM THE TOOL EFFECTIVE DATE NOV-01-2020 TO EXPIRATION DATE NOV-01- 2021.

(2). BUT YOU'RE CLAIMING THE EXPENSES IS SUBMITTED FOR THE MONTH OF MAR TO OCT 2020.

(3).YOU MAY ONLY CLAIM CHARGES FOR THE PERIOD BETWEEN THE APPROVAL EFFECTIVE DATE AND EXPIRY DATE HENCE THIS THE CLAIMED AMOUNT WILL NOT BE REIMBURSABLE.