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 individually and as a proxy for the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

[UNLIMITED CIVIL]

JOSE VALDEZ, an individual, and as a proxy
 for the State of California,

Plaintiff,

vs.

SAS SERVICES LOS ANGELES, INC., a
 corporation; and DOES 1 through 5, inclusive,

Defendants.

Case No.: **21STCV16473**

COMPLAINT FOR:

1. **Private Attorneys General Act**
2. **Labor Code § 1198.5(k) Penalty**
3. **Labor Code § 226(f) Penalty**
4. **Failure to Provide Meal and Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code § 226.7**

DEMAND FOR JURY TRIAL

Plaintiff, JOSE VALDEZ, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear the subject matter of this complaint. This Court also has jurisdiction over each defendant, as the unlawful business acts alleged herein occurred in California. Plaintiff's claims arise out of and are related to all Defendant's contacts with California.

2. Venue is proper in any county in which an aggrieved employee worked and Labor Code violations allegedly occurred. Venue is proper in this Court because all or some of the violations of law and unlawful practices alleged herein occurred and are occurring in the County of Los Angeles.

PARTIES

3. Plaintiff is an individual who, at all relevant times, has resided in the State of California.

1 4. Defendant SAS SERVICES LOS ANGELES, INC. ("SAS") is a corporation that
2 conducted, and is conducting, business in the State of California. SAS registered the address 8939 S.
3 Sepulveda Blvd., Suite 500, Los Angeles, CA 90045 with the California Secretary of State as its principal
4 place of business in California.

5 5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES
6 1-5, inclusive, and therefore sues these defendants by such fictitious names and capacities. Plaintiff will
7 seek leave to amend this Complaint to allege their true names and capacities when ascertained. Plaintiff
8 is informed and believes and on that basis alleges that each fictitiously named Defendants are responsible
9 in some manner for the occurrences herein alleged, and that Plaintiff's injuries were proximately caused
10 by the conduct of such defendant.

11 6. All of the Defendants, including DOES 1-5, are alleged to be co-conspirators with each
12 other, in that each agreed to participate, and participated in, the furtherance of the objective of civil wrongs
13 as alleged in this Complaint.

14 7. Plaintiff is informed and believes and thereupon alleges that at all times material herein,
15 each defendant was completely dominated and controlled by its, his or her co-Defendants, each was the
16 agent, representative, and alter ego of the others, and all aided and abetted the wrongful acts of the others.

17 8. Plaintiff is informed and believes and thereupon alleges that at all times material herein,
18 each of the Defendants was the agent, employee and/or joint venturer of, or working in concert with, co-
19 Defendants and was acting within the course and scope of such agency, employment, and/or joint venture
20 or concerted activity. To the extent that said conduct and omissions were perpetrated by certain
21 Defendants, Plaintiff is informed and believes and thereupon alleges that the remaining Defendant and/or
22 Defendants confirmed and ratified said conduct and omissions.

23 9. Plaintiff is informed and believes and on that basis alleges that at all times relevant herein,
24 the corporate Defendants, and each of them, had the right to control, and controlled, Plaintiff's wages,
25 hours and working conditions, and has the right to control the manner in which Plaintiff performed work
26 duties, including but not limited to supervision of work, engaged Plaintiff, suffered and permitted Plaintiff
27 to work, and they were employers, joint employers, or co-employers of Plaintiff at all relevant times
28 alleged herein.

10. Plaintiff is informed and believes and on that basis alleges that at all times relevant herein, the Defendant, and each of them, were an integrated enterprise in that they had an interrelation of operations, centralized control of labor relations, common management, and common ownership or financial control.

GENERAL ALLEGATIONS

11. Defendant employed Plaintiff, as an hourly non-exempt worker, from at least around September 28, 2018 to May 22, 2020, at Defendant's Los Angeles Airport contract location. As a company-wide practice, Defendant regularly required Plaintiff and its other non-exempt employees to work without being provided the opportunity to have a second rest break during full day shifts. As a company-wide practice, Defendant did not allow them the opportunity to be relieved of all duties to take a second rest break during full day shifts. As a company-wide practice, Defendant did not compensate them in lieu of providing second rest breaks. Moreover, as a company-wide practice, the itemized wage statements that Defendant furnished to Plaintiff, and its other non-exempt employees, failed to include accurate gross and net wages earned due to the failure to pay rest break premiums. Defendant failed to keep accurate itemized wage statements for Plaintiff, and its other non-exempt employees, that included accurate gross and net wages earned.

12. On March 1, 2021, Plaintiff requested from Defendant his personnel records and all documents he had signed relating to his employment. Defendant did not provide the requested records within 30 days.

13. On March 1, 2021, Plaintiff requested from Defendant his itemized wage statements. Defendant did not provide the requested records within 21 days.

FIRST CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST SAS AND DOES 1-5)

14. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

15. Pursuant to the California Labor Code Private Attorneys General Act ("PAGA"), "Notwithstanding any other provision of law, any provision of [the California Labor Code] that provides

1 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any
2 of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code,
3 may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
4 himself or herself and other current or former employees pursuant to the procedures specified in Section
5 2699.3.” Lab. Code § 2699(a). “For all provisions of [the California Labor Code] except those for which
6 a civil penalty is specifically provided, there is established a civil penalty for a violation of these
7 provisions.” Lab. Code § 2699(f).

8 16. This PAGA suit “is fundamentally a law enforcement action.” *Arias v. Super. Ct.*, 46 Cal.
9 4th 969, 986 (2009); *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 386-387 (2014)
10 (“[E]very PAGA action, whether seeking penalties for Labor Code violations as to only one aggrieved
11 employee—the plaintiff bringing the action—or as to other employees as well, is a representative action
12 on behalf of the state.”); *Williams v. Super. Ct.*, 3 Cal. 5th 531, 538 (2017) (“a PAGA suit, essentially a
13 qui tam action filed on behalf of the state to assist it with labor law enforcement”). An employee who
14 brings such an action is acting as an agent of state enforcement agencies. *Kim v. Reins Intl. Cal., Inc.*, 9
15 Cal.5th 73, 81 (2020).

16 20. A PAGA “violation” includes, and is used in these allegations to mean, a failure to comply
17 with any requirement of the Labor Code. Lab. Code § 22. Under the PAGA, an “aggrieved employee”
18 means any person who was employed by the alleged violator and against whom only one of the alleged
19 violations was committed. Lab. Code § 2699(c). Plaintiff is an “aggrieved employee.”

20 17. This PAGA action is intended to “remediate present violations and deter future ones.”
21 *Williams*, 3 Cal. 5th at 546. The relevant period for the following PAGA allegations in this cause of action
22 is from February 28, 2020 to present and ongoing.

23 ***Labor Code Violations §§ 226.7, 1198, 226***

24 ***§ 226.7***

25 18. “An employer shall not require an employee to work during a meal or rest or recovery
26 period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the
27 Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of
28 Occupational Safety and Health.” Lab. Code § 226.7(b). “If an employer fails to provide an employee a

1 meal or rest or recovery period in accordance with a state law, including, but not limited to, an
2 applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the
3 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the
4 employer shall pay the employee one additional hour of pay at the employee's regular rate of
5 compensation for each workday that the meal or rest or recovery period is not provided." Lab. Code §
6 226.7(c).

7 19. Relevant Wage Orders of the Industrial Welfare Commission, applicable to Defendants,
8 such as Wage Order No. 9-2001 section 12 for example, provide that "Every employer shall authorize and
9 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work
10 period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten
11 (10) minutes net rest time per four (4) hours or major fraction thereof."

12 20. As a company-wide practice, Defendant regularly required Plaintiff and its other
13 nonexempt employees to work without being provided the opportunity to have a rest break during their
14 second shifts. As a company-wide practice, Defendant did not allow them the opportunity to be relieved
15 of all duties to take a rest break during their second shifts. As a company-wide practice, Defendant did
16 not compensate them in lieu of providing rest breaks. As such, Defendant violated California Labor Code
17 section 226.7(b) and 226(c).

18 21. California Labor Code section 226.7 does not provide for its own self-contained "civil
19 penalty" within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil
20 penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each
21 aggrieved employee per pay period for each subsequent violation.

22 **§ 1198**

23 22. California Labor Code section 1198 provides that the maximum hours of work and the
24 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
25 standard conditions of labor for employees. California Labor Code section 1173 defines commission as
26 Industrial Welfare Commission. Further, the "employment of any employee for longer hours than those
27 fixed by the order or under conditions of labor prohibited by the order is unlawful." Lab. Code § 1198.

28 23. Relevant Wage Orders of the Industrial Welfare Commission, applicable to Defendants,

1 such as Wage Order No. 9-2001 section 12 for example, provide that “Every employer shall authorize and
2 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work
3 period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten
4 (10) minutes net rest time per four (4) hours or major fraction thereof.”

5 24. As a company-wide practice, Defendant regularly required Plaintiff and its other
6 nonexempt employees to work without being provided the opportunity to have a second rest break during
7 full day shifts. As a company-wide practice, Defendant did not allow them the opportunity to be relieved
8 of all duties to take a second rest break during full day shifts. As a company-wide practice, Defendant did
9 not compensate them in lieu of providing second rest breaks. As such, Defendant violated relevant Wage
10 Orders of the Industrial Welfare Commission and consequently violated Labor Code section 1198.

11 25. California Labor Code section 1198 does not provide for its own self-contained “civil
12 penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil
13 penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each
14 aggrieved employee per pay period for each subsequent violation.

15 **§ 226**

16 26. Labor Code section 226(a)(1)(5) requires that every employer shall, semimonthly or at the
17 time of each payment of wages, furnish each of his or her employees, either as a detachable part of the
18 check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal
19 check or cash, an accurate itemized statement in writing showing: the accurate gross and wages earned.

20 27. As a company-wide practice, the itemized wage statements that Defendant furnished to
21 Plaintiff, and its other non-exempt employees, failed to include accurate gross and net wages earned due
22 to the failure to pay rest break premiums. Defendant failed to keep accurate itemized wage statements
23 for Plaintiff, and its other non-exempt employees, that included accurate gross and net wages earned. As
24 such, Defendant violated Labor Code section 226(a).

25 28. California Labor Code section 226 does not provide for its own self-contained “civil
26 penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil
27 penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each
28 aggrieved employee per pay period for each subsequent violation.

1 **§ 226.3**

2 29. “Any employer who violates subdivision (a) of section 226 shall be subject to a civil
3 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation
4 and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the
5 employer fails to provide the employee a wage deduction statement or fails to keep the records required
6 in subdivision (a) of Section 226.” Lab. Code § 226.3. Because Defendant violated California Labor Code
7 section 226(a) by failing to keep accurate records, it is subject to civil penalties under section 226.3
8 applicable to Plaintiff and other current and former aggrieved employees.

9 ***Exhaustion of Administrative Remedies***

10 30. On February 25, 2021, Plaintiff provided notice to the California Labor and Workforce
11 Development Agency (“LWDA”), pursuant to Labor Code § 2699.3, detailing the specific provisions of
12 the foregoing Labor Code sections that have been violated, including the facts and theories to support the
13 violations. The LWDA file number is LWDA-CM-8228525-21. The notice was sent by certified mail on
14 or about February 25, 2021, to SAS, Saif Rteimeh, CEO, (7019 0140 0000 7526 8866) and SAS, Wesan
15 Abouelata, Secretary, (7019 0140 0000 7526 8873). Plaintiff submitted a \$75.00 fee to the LWDA.

16 31. The LWDA has not, within 65 days of Plaintiff’s Notice of violations of the Labor Code,
17 sent Plaintiff notice that it intends to investigate the violations. Thus, Plaintiff has exhausted Plaintiff’s
18 administrative remedies, pursuant to Labor Code section 2699.3(a), as a prerequisite to assert a civil
19 action, for civil penalties pursuant to Labor Code section 2699. Defendant has not sent any notice to the
20 LWDA attempting to cure the alleged violations of Labor Code statutes not enumerated in Labor Code
21 section 2699.5. Thus, Plaintiff has exhausted Plaintiff’s administrative remedies, pursuant to Labor Code
22 section 2699.3(c), as a prerequisite to assert a civil action, for civil penalties pursuant to Labor Code
23 section 2699.

24 **SECOND CAUSE OF ACTION**

25 **LABOR CODE § 1198.5(k) PENALTY**

26 **(AGAINST SAS AND DOES 1-5)**

27 32. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though
28 set forth herein in full again.

33. The employer shall make personnel records available for inspection to the former employee, or his or her representative, at reasonable intervals and at reasonable times, but “not later than 30 calendar days from the date the employer receives a written request.” Lab. Code § 1198.5(b).

34. Defendants did not timely provide Plaintiff’s personnel records.

35. “If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer.” Lab. Code § 1198.5(k).

36. Because Defendant failed to timely provide the personnel records, Plaintiff is entitled to a statutory penalty, and for an award of attorneys’ fees pursuant to Lab. Code § 1198.5(l).

THIRD CAUSE OF ACTION

LABOR CODE § 226(f) PENALTY

(AGAINST SAS AND DOES 1-5)

37. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

38. 18. An employer that is required to keep the information required by Labor Code § 226(a) shall afford current and former employees the right to inspect or copy records pertaining to their employment. Lab. Code § 226(b). An employer who receives a written or oral request to inspect or copy records pursuant to Labor Code § 226(b) shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. Lab. Code § 226(c). Defendant violated Labor Code § 226(b)(c) by failing to timely provide Plaintiff with the complete Lab Code § 226(a) records pertaining to Plaintiff’s employment.

39. A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in Labor Code § 226(c) entitles the current or former employee to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer. Lab. Code § 226(f).

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FOURTH CAUSE OF ACTION**FAILURE TO PROVIDE REST PERIODS****OR COMPENSATION IN LIEU THEREOF IN VIOLATION OF LABOR CODE § 226.7****(AGAINST SAS AND DOES 1-5)**

40. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

41. California Labor Code section 226.7 provides that “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.” Lab. Code § 226.7(b).

42. “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.” Lab. Code § 226.7(c).

43. Relevant Wage Orders of the Industrial Welfare Commission (“IWC”), applicable to Defendant, such as Wage Order No. 4-2001 section 12, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

44. Defendants regularly required Plaintiff to work without being provided the opportunity to have uninterrupted rest breaks. Defendants regularly did not allow him the opportunity to be relieved of his duties to take a rest break. Defendant did not compensate Plaintiff in lieu of providing him with rest breaks.

45. Pursuant to Labor Code section 226.7, Plaintiff is entitled to compensation of one additional hour of pay at his regular rate of compensation for each workday that the rest period was not provided pursuant to *United Parcel Serv., Inc. v. Superior Court*, 196 Cal. App. 4th 57, 70 (2011).

46. “Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.” Lab. Code § 558.1(a).

PRAYER

WHEREFORE, Plaintiff prays:

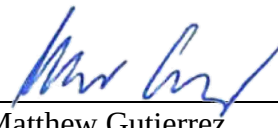
1. For civil penalties pursuant to the California Labor Code §§ 2698 *et seq.*
2. For a \$750 statutory penalty pursuant to Labor Code section 1198.5.
3. For a \$750 statutory penalty pursuant to Labor Code section 226.
4. For compensatory special damages, in an amount according to proof at the time of trial.
5. For reasonable attorneys’ fees pursuant to the California Labor Code and Code of Civil Procedure.
6. For costs of suit including expert witness fees.
7. For prejudgment interest.
8. For such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff JOSE VALDEZ hereby demands a trial by jury.

Dated: May 3, 2021

GUTIERREZ DERHAM LAW FIRM LLP

By: 

Matthew Gutierrez
Attorneys for Plaintiff, JOSE VALDEZ,
individually and as a proxy for the State of
California