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Attorneys for Plaintiff,
DIERDRE WALKER, on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DIERDRE WALKER, an individual, on behalf) Case No.: **21STCV23983**
of herself, all aggrieved employees, and the)
State of California as a Private Attorneys)
General,)

Plaintiffs,

REPRESENTATIVE ACTION

vs.

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 et seq.**

NEW STANDARD EQUITIES, INC., a
California corporation, and DOES 1-50,
inclusive,

Defendants.

Plaintiff DIERDRE WALKER brings this PAGA representative action complaint on
behalf of herself, all aggrieved employees, and the State of California as a Private Attorneys
General, and alleges as follows:

NATURE OF THE ACTION

1. Plaintiff DIERDRE WALKER and aggrieved employees worked property managers
and maintenance workers for defendant NEW STANDARD EQUITIES, INC. and Does 1-50

1 (collectively “Defendants”). Plaintiff brings this action pursuant to the Private Attorneys General
2 Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a representative basis. All current and
3 former hourly, non-exempt employees of Defendants in California within one year of serving
4 notice on the LWDA to the present are aggrieved employees.

5 2. Defendants failed to comply with California Labor Code requirements due to
6 erroneous, willful and intentional employment practices and policies. Plaintiff brings this
7 representative action on behalf of herself, all other similarly situated aggrieved employees, and
8 the State of California, based upon the claims articulated below. Plaintiff provided notice of her
9 claims pursuant to §2698 *et. seq.*, to the Labor and Workforce and Development Agency
10 (“LWDA”) as illustrated by the attached Exhibit. The LWDA has not provided any notice to
11 Plaintiff following the exhaustion of the 65-day notice period required by 2699.3(a)(2)(B).
12 Accordingly, Plaintiff now brings this Complaint for civil penalties under the Private Attorneys
13 General Act (“PAGA”), Labor Code §2698 *et seq.*

14 3. Defendants have had a consistent policy and/or practice of: (1) failing to pay for all
15 hours worked, including overtime hours worked; (2) failing to include nondiscretionary bonuses
16 in regular rate of pay to calculate overtime (3) failing to provide compliant off-duty meal breaks;
17 (4) failing to provide rest breaks;(5) failing to reimburse for required business expenses; (6)
18 failing to timely pay all wages owed; and (7) failing to provide accurate wage statements and
19 maintain accurate payroll records. Defendants are therefore liable for civil penalties under the
20 Cal. Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et*
21 *seq.*, as described more fully herein.

22 THE PARTIES

23 7. Plaintiff DIERDRE WALKER is a resident of the State of California and was
24 employed as an hourly, nonexempt employee of Defendants February of 2020 until November 3,
25 2020.

26 8. Defendant NEW STANDARD EQUITIES, INC., is a California corporation doing
27 business in California with the capacity to sue and to be sued, and doing business, in the county
28 of Los Angeles, State of California.

9. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names, Plaintiffs will amend this complaint when their true names and capabilities are ascertained.

10. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees of the representative class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

JURISDICTION AND VENUE

11. Venue is proper in this judicial district because Defendants conduct business in this county and each defendant has legal obligations to Plaintiff and many of the aggrieved employees in this case that arose in this county.

12. The statutory penalties sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars (\$25,000).

13. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendants are incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

1 14. During the relevant time-period, Defendants committed various violations of the
2 California Labor Code as alleged below in more detail. Defendants enforce multiple policies that
3 violate state law, which are intended to increase profits to the detriment of aggrieved employees.

4 15. Defendant NEW STANDARD EQUITIES, INC., is a real estate investment and asset
5 management company. This representative action represents dozens of current and former
6 aggrieved employees.

7 16. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
8 to the present, Defendants engaged in unlawful employment practices that resulted in violations of
9 numerous Labor Code sections, as set forth more fully below.

10 17. Plaintiff and all current and former hourly, non-exempt employees in California within
11 one year of filing this action to the present are aggrieved employees within the meaning of Labor
12 Code 2699, *et seq.* (See Labor code §2699(c).)

13 18. Defendants, and each of them, have committed the following violations of the
14 California Labor Code:

15 **Failure to Pay for All Hours Worked, Including Overtime Hours Worked**

16 (Cal. Labor Code §§218, 510, 512, 558, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*)

17 19. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
18 incorporate said paragraphs herein by reference.

19 20. Section 2(K) or Wage Order 5 defines “hours worked” as “the time during which an
20 employee is subject to the control of an employer, and including all the time the employee is
21 suffered or permitted to work, whether or not required to do so.” When employees like Plaintiff
22 and aggrieved employees earning at or near minimum wage do not receive payment for all hours
23 worked, including time shaved from their timecards due to employer rounding and auto-
24 deducting meal periods, the result is that they are earning less than the statutory minimum wages
25 for all hours worked. Defendants have been engaged in many unlawful employment practices
26 which resulted in underpayment for hours worked each pay period, including penalty pay and
27 overtime hours worked, as more fully set forth below:
28

1 Pre and Post-Shift Work and Off-the-Clock Communications. Plaintiff and aggrieved
2 employees frequently worked off the clock and were routinely subjected to periods wherein they
3 were under Defendants' control but not compensated for their time. Plaintiff and aggrieved
4 employees were required to perform numerous tasks off the clock. For example, Plaintiff was
5 required to walk around the property to ensure it was in order prior to her shift, which took 10-15
6 minutes every day. She was also required to go to the bank for the company after her shift.
7 Pursuant to Defendants' requirements, Plaintiff was never clocked in during the time in the
8 mornings that she would walk the property, nor was she ever clocked in after her shift during her
9 visits to the bank for the company, thus she was never paid for this time spent working for
10 Defendants.

11 21. This resulted in many unpaid hours worked for all aggrieved employees required to
12 communicate regarding work matters with their employer while off the clock. Defendants violated
13 Labor Code §§510 1194, and 1198, and Wage Order 5. Defendants are liable for civil penalties
14 pursuant to Labor Code §§558 and 2698 *et seq.*

15 22. Work Performed During Unpaid Meal Periods. As more fully set forth below,
16 Defendants failed to permit Plaintiff and aggrieved employees to take timely, off-duty, first and
17 second meal breaks of "not less than 30 minutes" for each five consecutive hours of work in
18 violation of Labor Code §§226.7 and 512. Plaintiff and aggrieved employees were either denied
19 required breaks, was forced to work through breaks, or was interrupted with work during
20 required meal periods. Plaintiff and aggrieved employees have been employed under conditions
21 prohibited by the wage order, and thus Defendants have violated §1198. Defendants are liable for
22 civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

23 23. Failure to Pay Wages- Required Minimum Wage. Defendants failed to pay Plaintiff
24 and aggrieved employees for all hours worked as a result of Defendants' practice of rounding
25 time-card entries, requiring employees to work off the clock pre and post-shift, and interrupting
26 and requiring work during mandated meal and rest periods. Based on Defendants' unlawful
27 conduct described above, and because Plaintiff and the aggrieved employees were paid at or near
28 minimum wage, Defendants' failure to pay for all hours worked, including overtime, resulted in

1 a payment of less than the minimum wage for all hours worked, in violation of Labor Code
2 §1197, 1197.1, 1199 and Wage Order 5-2001 4(B). Defendants are liable for civil penalties
3 pursuant to Labor Code §§558 and 2699 *et seq.*

4 24. Failure to Pay All Wages Owed Twice Per Month. Defendants were required to pay
5 Plaintiff and aggrieved employees all wages earned twice during each calendar month pursuant
6 to Labor Code §204(a). Defendants failed to pay all wages earned to employees as a result of the
7 unlawful employment policies and practices discussed herein. As a result of these practices,
8 aggrieved employees were underpaid for hours worked, including penalty wages, and this
9 underpayment resulted in a failure to pay all wages owed twice per month.

10 25. Failure to Pay Overtime Wages. Defendants have required, as a result of its time
11 rounding practices, Plaintiff and others to work hours in excess of eight hours in a day and forty
12 in a week, but has not paid these employees overtime compensation at one and one-half times the
13 regular rate of pay in violation of Labor Code §510. Further, Plaintiff and aggrieved employees
14 have been required to work in excess of 8 hours in one day without being compensated at a rate
15 of twice the regular rate of pay. §510. As a result, Plaintiff and aggrieved employees have been
16 denied “the unpaid balance of the full amount of this... overtime compensation” as required by
17 Cal. Labor Code. §1194. Defendant is liable for civil penalties pursuant to Labor Code §§558
18 and 2699 *et seq.*

19 **Failure to Include Nondiscretionary Bonuses in Regular**
20 **Rate of Pay to Calculate Overtime**

21 (Cal. Labor Code §§200, 207, 218, 510, 558, 1194, 1197, 1197.1, 1198, 2699 *et seq.*)

22 26. Pursuant to Labor Code §200(a) “‘Wages’ includes all amounts for labor performed by
23 employees of every description, whether the amount is fixed or ascertained by the standard of time,
24 task, piece, commission basis, or other method of calculation.”

25 27. Defendants have a policy and practice of issuing nondiscretionary bonuses to Plaintiff
26 and aggrieved employees but fails to include bonuses when calculating the regular rate of pay for
27 purposes of calculating overtime. It is well established that non-discretionary bonuses retroactively
28 increase the employee’s “regular rate” of pay for purposes of calculating overtime. (Labor Code

1 §207) The “regular rate” is calculated by dividing the hours worked in a week by all the
2 compensation earned for that week. When an employee is later paid a bonus that is partly due to
3 work performed in that week, this additional pay must be added into the total compensation for
4 the week, increasing the employee’s regular rate of pay. (*Marin v. Costco Wholesale Corp.* (2008)
5 169 CA4th 804, 807.)

6 28. In this case, Plaintiff and aggrieved employees received bonuses for tasks including
7 leasing properties and renewing leases. Defendants did not make any adjustments to overtime rates
8 to incorporate the nondiscretionary bonuses, and this failure is reflected in Plaintiff and aggrieved
9 employees’ paystubs. Plaintiff and other employees have been denied “the unpaid balance of the
10 full amount of this... overtime compensation” as required by Cal. Labor Code. §1194.
11 Additionally, Defendants have violated Cal. Labor Code §218 and §510 and applicable Industrial
12 Welfare Commission Wage Orders at sections (3)(A)(1) for failure to pay overtime, as well as
13 §1198 which makes it a violation of the labor code to fail to comply with a wage order. Defendants
are liable for civil penalties pursuant to Cal. Labor Code §558 and 2698 *et seq.*

14 **§558 Civil Penalty For Violation of §512 Meal Break Requirements**

15 (Civil Penalties under Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

16 7. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
17 incorporate said paragraphs herein by reference.

18 8. Defendants prohibited employees from taking uninterrupted 30-minute minimum meal
19 breaks and required rest breaks during work hours. Labor Code §512 provides, “[a]n employer
20 may not employ an employee for a work period of more than five hours per day without
21 providing the employee with a meal period of not less than 30 minutes...” Labor Code §226.7(a)
22 provides, “[n]o employer shall require an employee to work during any meal... period mandated
23 by an applicable order of the Industrial Welfare Commission.” Paragraph 11(A) of the Wage
24 Orders provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30
25 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as
26 time worked.” Labor Code §1198 makes it unlawful for an employer to employ an employee for
27 longer hours than those fixed by the wage order or under conditions of labor prohibited by the
28 order.

1 9. Section 11(D) of Wage Order 5 states: “Notwithstanding any other provision of this
2 order, employees in the health care industry who work shifts in excess of eight (8) total hours in
3 a workday may voluntarily waive their right to one of their two meal periods. In order to be valid,
4 any such waiver must be documented in a written agreement that is voluntarily signed by both
5 the employee and the employer. The employee may revoke the waiver at any time by providing
6 the employer at least one day’s written notice. The employee shall be fully compensated for all
7 working time, including any on-the-job meal period, while such a waiver is in effect.”

8 On many occasions, Plaintiff was unable to take a compliant meal period. Plaintiff claims
9 that although she frequently worked 8 hour shifts, she was not provided a full, uninterrupted 30
10 minute break. The breaks were, from time to time, shortened due to work meetings conflicting
11 with meal break times, understaffing, and calls coming in on the google call app. Additionally,
12 although meal breaks were frequently late, short, and interrupted, the manager would adjust the
13 Claimants reported time on her payroll to reflect a timely, one hour break. Pursuant to *Alberts v.*
14 *Aurora Behavioral Health Care*, (2015) 241 Cal.App.4th 388, 408, altering time cards and
15 engaging in unlawful timekeeping practices to avoid paying meal period premiums is unlawful.

16 10. Defendants failed to permit Plaintiff and aggrieved employees to take timely, off-
17 duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in
18 violation of Labor Code §§226.7 and 512. As a derivative claim, Plaintiff and aggrieved
19 employees allege that pay statements were inaccurate, failing to include required meal period
20 penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations,
21 Defendants are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

22 11. Plaintiff alleges on information and belief that Defendants’ failure to pay aggrieved
23 employees the unpaid balance of these meal period wages upon the termination of their
24 employment, as alleged in this cause of action, was willful, and thus entitles aggrieved
25 employees to penalties under Labor Code § 203. Specifically, Labor Code § 203 provides that an
26 employee's wages shall continue as a penalty until paid or for a period of up to 30 days from the
27 time they were due, whichever period is shorter.

28 12. Plaintiff seeks penalties pursuant to Labor Code §558 in this representative action for
each violation of Labor Code §226.7. Further, as a derivative claim for failing to pay the

premium pay of one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided, Plaintiff will seek statutory penalties under Labor Code §226(a)(1) because the failure to pay such premium wages rendered gross pay calculations inaccurate in violation of Labor Code §226(e)(2)(B)(i).

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

13. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

14. Defendants have failed to maintain a policy and practice that provides or permits its employees with off-duty rest periods as required by California law. Plaintiff and aggrieved employees regularly worked in excess of four hours, or a major fraction thereof, during work days without being provided any rest break, despite the fact that employees are entitled to at least a ten minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and Wage Order 5.

15. According to Plaintiff, she almost never received rest breaks, and this experience is consistent with that of other aggrieved employees. Breaks were not integrated into daily schedules. Because of this lack of process, and due to the press of work, it was difficult and frequently impossible for employees to take rest breaks. Defendants failed to pay Plaintiff and similarly situated employees all premium compensation (one hour of pay at the employee's regular rate of pay for missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these missed rest periods. As a derivative claim, Plaintiff also alleges that their pay statements were inaccurate, failing to include required rest period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Defendants are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

16. Plaintiff will seek statutory penalties pursuant to Labor Code §558 in this representative action for each violation of Labor Code §226.7. Further, as a derivative claim of failing to pay the premium pay of one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided, Plaintiff will seek statutory

penalties under Labor Code §226(a)(1) because the failure to pay such premium wages rendered her gross pay calculations inaccurate in violation of Labor Code §226(e)(2)(B)(i).

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

17. Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of the discharge of duties.

18. Defendants required Plaintiff and aggrieved employees to utilize their personal laptop computers, wifi internet, and cellular telephones during their workday, during assignments, but failed to reimburse Plaintiff and aggrieved employees for this use as required by the Labor Code. As a result of these practices, Defendants are liable for civil penalties under Cal. Lab. Code §2698 *et seq.* Plaintiff also seeks attorneys' fees and costs pursuant to Labor Code §§558 and 2699(g)(1).

Failure to Timely Pay Final Wages

(Cal. Labor Code §§201, 202, 203, 558, and 2698 *et seq.*)

19. Defendants knowingly and willfully failed to pay all compensation due and owing to Plaintiff and aggrieved employees at the time employment terminated. Defendants willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.

20. Plaintiff believes that other employees who separated from the company, whether voluntary or involuntary, were also denied payment of wages in a timely manner as required by §203. Plaintiff seeks civil penalties pursuant to §558 (a)(3) for each violation of §203 and civil penalties under PAGA pursuant to §2698 *et seq.*, on behalf of the Labor and Workforce and Development Agency (LWDA).

21. Pursuant to §203, Plaintiff and similarly situated individuals are now also entitled to recover up to thirty (30) days of wages due to Defendants' "willful" failure to comply with the statutory requirements of §§201 and 202 of the Labor Code. Moreover, because Defendants violated §§201, 202 and 203, Defendants are liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et seq.*

1 22. Defendants were required to pay Plaintiff and employee all wages earned twice
2 during each calendar month pursuant to Labor Code §204(a). Defendants failed to pay all wages
3 earned to employees as a result of the unlawful employment policies and practices discussed
4 herein. As a result of these practices, aggrieved employees were underpaid for hours worked,
5 including overtime and penalty wages, and this underpayment resulted in a failure to pay all
6 wages owed twice per month.

7 **Civil Penalties For Failure to Furnish and Maintain Accurate Payroll Records**

8 (Civil Penalties under Labor Code §§ 226(a), 226.3, 1174, 1174.5, 2698 *et seq.*)

9 23. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
10 incorporate said paragraphs herein by reference.

11 24. California Labor Code § 226(a) provides that “[e]very employer shall, semimonthly
12 or at the time of each payment of wages, furnish each of his or her employees...an accurate
13 itemized statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the
14 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
15 piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for
16 which the employee is paid, (7) the name of the employee and his or her social security
17 number..., (8) the name and address of the legal entity that is the employer, and (9) all applicable
18 hourly rates in effect during the pay period and the corresponding number of hours worked at
19 each hourly rate by the employee.” (Emphasis added.)

20 25. Labor Code § 1174 provides that “[e]very employer employing labor in this state
21 shall ... (c) [k]eep a record showing the names and addresses of all employees employed and the
22 ages of all minors [and] (d) [k]eep at a central location in the state or at the plants or
23 establishments at which employees are employed, payroll records showing the hours worked
24 daily by and the wages paid to, and the number of piece-rate units earned by and any applicable
25 piece rate paid to, employees employed at the respective plants or establishments. These records
26 shall be kept in accordance with rules established for this purpose by the commission, but in any
27 case shall be kept on file for not less than two years.”

1 26. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
2 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
3 and 1174. As a result of the unlawful employment practices discussed herein, the statements
4 provided to Plaintiff and aggrieved employees have not accurately reflected actual gross wages
5 earned, including overtime and meal/rest premiums and total regular, overtime, and double time
6 hours worked.

7 27. Labor Code § 226.3 provides, “[a]ny employer who violates subdivision (a) of
8 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
9 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
10 for each violation in a subsequent citation, for which the employer fails to provide the employee
11 a wage deduction statement or fails to keep the records required in subdivision (a) of Section
12 226. The civil penalties provided for in this section are in addition to any other penalty provided
13 by law.”

14 28. Defendants are liable for civil penalties under §226.3 for violation of §226(a).

15 29. Plaintiff alleges on information and belief that Defendants knowingly and
16 intentionally failed to furnish aggrieved employees with accurate itemized statements for each
17 pay period that they worked and failed to maintain accurate payroll records of the aggrieved
18 employees as mandated by Labor Code §§ 226.

19 30. Defendants failed to timely furnish final wages upon separation as required under
20 Labor Code §201-202 and failed to pay resulting waiting time penalties when final wages were
21 ultimately paid. As a result, Defendants issued inaccurate final wage statements to aggrieved
22 employees.

23 31. Inaccuracies in the wage statements and payroll records were also caused, among
24 other reasons, by Defendants’ unlawful timekeeping practices that resulted in underreporting
25 hours worked, including overtime hours worked, resulting from missed and interrupted meal
26 periods. In addition, because Defendants miscalculated overtime, overtime pay was incorrect.
27 Plaintiff alleges on information and belief that as a result of Defendants’ conduct, aggrieved
28

employees sustained damages. As such, aggrieved employees are entitled to civil penalties §§ 226.3 and §2698.

32. Through this representative action, Plaintiff will advance the interests of hundreds of current and former employees, such that joinder is impracticable. These current and former employees can be readily be identified through a review of Defendants' payroll records and the records of the company that handles payroll for Defendants.

33. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

FIRST CAUSE OF ACTION

Against All Defendants for Violation of the Private Attorneys General Act ("PAGA") (California Labor Code §2698 *et seq.*)

34. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

35. Plaintiff is an "aggrieved employee" under PAGA, as she was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorneys' fees and costs.

36. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

37. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code provisions:

- a. Failure to Pay for All Hours Worked, Including Overtime Hours Worked (Cal. Labor Code §§218, 510, 558, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*);

- b. Failure to Include Nondiscretionary Bonuses in Regular Rate of Pay to Calculate Overtime (Cal. Labor Code §§200, 207, 218, 510, 558, 1194, 1197, 1197.1, 1198, 2699 *et seq.*)
- c. Failure to Provide Uninterrupted Meal Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*);
- d. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*);
- e. Failure to Reimburse for Required Business Expenses (Cal. Labor Code §§1198, 2802, 2699 *et seq.*)
- f. Failure to Timely Pay All Wages Owed (Cal. Lab. Code §§201, 202, 203, 204(a), 2698 *et seq.*);
- g. Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Records (Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, 2698 *et seq.*).

38. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §226(a).

39. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid.

40. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

41. Plaintiff and the other current and former employees of Defendants are aggrieved employees. They were or are employed by Defendants, and each of them, and the violations

1 alleged herein were committed against them. Plaintiff brings this action on behalf of herself and
2 all other current and former aggrieved employees.

3 42. At the time of each violation, Defendants employed one or more employees.

4 43. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of
5 them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be
6 determined at trial, pre-judgment interest, costs and attorneys' fees.

7 44. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior
8 to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and
9 Workforce Development Agency ("LWDA") and served by certified mail upon Defendants,
10 Plaintiff through counsel notified the LWDA and Defendants of the specific Labor Code
11 provisions that Defendants have violated. The LWDA did not respond to Plaintiff's Notice
12 within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies.
13 Pursuant to Labor Code §2699.3, Plaintiff may now pursue her PAGA claims in this action on
14 behalf of aggrieved employees and the State of California.

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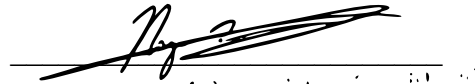
1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays
3 for judgement against Defendants as follows:

- 4 1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be
5 determined at trial, but at least the jurisdictional amount of this Court;
- 6 2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code
7 §2699(g) and/or other applicable law;
- 8 3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable
9 law;
- 10 4. Pre-judgement and post-judgement interest as provided by law; and
- 11 5. Such other and further relief that the Court may deem just and proper.
- 12

13 DATED: June 29, 2021

KOUL LAW FIRM
LAW OFFICES OF SAHAG MAJARIAN II

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18 BY: Nazo Koulloukian, Esq.
19 Attorneys for Plaintiff DIERDRE WALKER, and
20 all aggrieved employees
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EXHIBIT 1



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April 1, 2021

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

New Standard Equities, Inc.
15910 Ventura Blvd., Suite 1450
Encino, CA 91436

Re: PAGA Notice Pursuant to California Labor Code §2699

Claimant: Dierdre Walker

Employers: New Standard Equities, Inc.

Dear Sir or Madam:

Claimant Dierdre Walker has retained Nazo Koulloukian, Esq. and the KOUL LAW, for wage and hour claims against her former employer New Standard Equities, Inc. (collectively “New Standard Equities” or “Employers”). Ms. Walker began working for Employer in February of 2020 and continued until November 3, 2020. Claimant and aggrieved employees worked in positions including as property managers and maintenance workers.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and it is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay Wages, including Overtime Wages

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*,

Wage Order 5)

Section (K) of Wage Order 5 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” When employees like Claimant and her coworkers earning wages at or near minimum wage do not receive payment for all hours worked, the result is that they are earning less than the statutory minimum wages for all hours worked. Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including not paying for required time spent walking the property before shifts and time spent going to the bank for Employer after her shift.

Pre and Post-Shift Work

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer’s control but not compensated for their time. Employer has failed to maintain a policy that compensates employees for all hours worked, including overtime. Claimant and aggrieved employees were required to perform numerous tasks off the clock. For example, Claimant was required to walk around the property to ensure it was in order prior to her shift, which took 10-15 minutes every day. She was also required to go to the bank for the company after her shift. Pursuant to Employer’s requirements, Claimant was never clocked in during the time in the mornings that she would walk the property, nor was she ever clocked in after her shift during her visits to the bank for the company, thus she was never paid for this time spent working for Employers.

Work Performed During Unpaid Meal Periods

As more fully set forth below, Employer failed to permit Claimant and others to take timely, off-duty meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employees often had their meal breaks delayed, cut short, and interrupted due to meetings conflicting with meal break times, work calls coming in on google voice app, and understaffing. Claimant explains that she missed a meal break or would have a non-compliant meal break 2-3 times per week. Claimant and aggrieved employees have also been employed under conditions prohibited by the wage order, and thus Employer has violated §1198. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay Wages- Required Minimum Wage

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practice of requiring employees to work off the clock and during unpaid meal periods, and as further described herein. Based on Employer's unlawful conduct, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 5-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Include Nondiscretionary Bonuses in Regular

Rate of Pay to Calculate Overtime and Penalty Pay

(Cal. Labor Code §§200, 207, 218, 510, 558, 1194,
1197, 1197.1, 1198, 2699 *et seq.*)

Pursuant to Labor Code §200(a) "'Wages' includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation."

Employer pays nondiscretionary bonuses to Claimant and aggrieve employees yet fails to include the amount of the bonuses into the regular rate of pay for purposes of calculating overtime. Claimant received bonuses for tasks including leasing properties and renewing leases for properties. It is well established that non-discretionary bonuses retroactively increase the employee's "regular rate" of pay for purposes of calculating overtime. (Labor Code §207) The "regular rate" is calculated by dividing the hours worked in a week by all the compensation earned for that week. When an employee is later paid a bonus that is partly due to work performed in that week, this additional pay must be added into the total compensation for the week, increasing the employee's regular rate of pay. (*Marin v. Costco Wholesale Corp.* (2008) 169 CA4th 804, 807.)

When employees like Claimant and her coworkers earning near minimum wage do not receive payment for all hours worked, including as a result of Employer's practice of miscalculating overtime owed, the result is that many employees are earning less than the statutory minimum wages for all hours worked in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 5-2001 §4. Employer has been engaged in many unlawful employment practices which resulted in failure to pay minimum wage for all hours worked each pay period.

Claimant and other employees have been denied "the unpaid balance of the full amount of this... overtime compensation" as required by Cal. Labor Code. §1194. Additionally, Employer has violated Cal. Labor Code §218 and §510 and applicable

Industrial Welfare Commission Wage Orders at sections (3)(A)(1) for failure to pay overtime, as well as §1198 which makes it a violation of the labor code to fail to comply with a wage order. Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and 2698 *et seq.*

Failure to Provide Timely Meal Breaks

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order 5)

Labor Code §512 provides, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission.” Paragraph 11 of Wage Order 14 provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.”

In this case, Claimant claims that although she frequently worked 8 hour shifts, she was not provided a full, uninterrupted 30 minute break. The breaks were, from time to time, shortened due to work meetings conflicting with meal break times, understaffing, and calls coming in on the google call app. Additionally, although meal breaks were frequently late, short, and interrupted, the manager would adjust the Claimants reported time on her payroll to reflect a timely, one hour break. Pursuant to *Alberts v. Aurora Behavioral Health Care*, (2015) 241 Cal.App.4th 388, 408, altering time cards and engaging in unlawful timekeeping practices to avoid paying meal period premiums is unlawful.

Section 11 of Wage Order 5 requires employers to authorize and permit employees to take an uninterrupted 30 minute meal period after no more than 5 hours of work. Pursuant to Labor Code §1198, “the employment of any employee... under conditions of labor prohibited by the order is unlawful.” Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Although meals were routinely shortened, Employer never paid penalty pay to Claimant, as indicated on her attached paystubs. As a derivative claim, Claimant alleges that her pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Rest Periods

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order 5)

Employer has failed to maintain a policy and practice that provides or permits its employees with off-duty rest periods as required by California law. Claimant and his fellow employees regularly worked in excess of four hours, or a major fraction thereof, during work days without being provided any rest break, despite the fact that employees are entitled to at least a ten minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and Wage Order 5. Employees were not able to take adequate 10 minute breaks due to understaffing and the over abundant workload. Claimant explains that she missed a required rest break at least once per week and that she is aware that other aggrieved employees had a similar experience.

Employer failed to pay Claimant and similarly situated employees the premium compensation (one hour of pay at the employee's regular rate of pay for missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these missed rest periods. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et seq.*

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2698 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Employer required Claimants and employees to utilize their personal laptop computers, wifi internet, and cellular telephones during their workday, during assignments, but failed to reimburse Claimants and employees for this use as required by the Labor Code. Accordingly, Employer is liable for civil penalties under PAGA §2698 *et seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203 and 2698 *et seq.* Wage Order 5)

As set forth herein, due to Employers' unlawful employment practices, Employers knowingly and willfully failed to pay all minimum, regular, overtime, and premium wages owed to Claimant at the time employment terminated. Employer willfully failed to pay aggrieved employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Pursuant to §§203, Claimant and similarly situated individuals are now also entitled to recover up to thirty (30) days of unpaid minimum wages due to Employer's "willful" failure to comply

with the statutory requirements of §§201 and 202 of the Labor Code. Moreover, because Employer violated §§201-203, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Claimant believes that other employees who separated from the company, whether voluntary or involuntary, were also denied payment of minimum wages in a timely manner as required by §203. Claimant will seek civil penalties pursuant to §558 (a)(3) for herself and other aggrieved employees for each violation of §203 and will seek civil penalties under PAGA pursuant to §2698 *et. seq.*, on behalf of the Labor and Workforce and Development Agency (LWDA) against Employer if authorized to file a representative action on behalf of the State of California.

Paystub and Record Keeping Violations

(Cal. Lab. Code §§226, 1174, 2698 *et seq.*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimants and the aggrieved employees, and maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

California Labor Code § 226(a) provides that “[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for which the employee is paid, (7) the name of the employee and his or her social security number..., (8) the name and address of the legal entity that is the employer, and (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.”

Labor Code § 1174 provides that “[e]very employer employing labor in this state shall ... (c) [k]eep a record showing the names and addresses of all employees employed and the ages of all minors [and] (d) [k]eep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.”

Based on and as a result of the above-mentioned Labor Code violations, Employers maintained and issued inaccurate wage statements, failing to include required

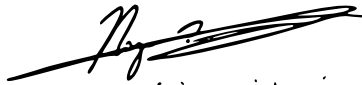
hours and overtime hours worked and misrepresenting actual regular hours worked on the final wage statement. Employer further failed to include meal and rest period penalties, thus failing the requirements of Labor Code §226(a). Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled.

Claimant will seek penalties as permitted under Labor Code §226 for herself and other aggrieved employees for each violation. Further, claimant will seek recovery of civil penalties under Labor Code §226.3, and PAGA, Labor Code §2698, *et seq.*, on behalf of the LWDA against the Employers if authorized to file a representative action on behalf of the State of California for Employers' paystub violations.

Conclusion

Employers have violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully Submitted,



Nazo Koulloukian
KOUL LAW FIRM
Attorneys for Claimant