

Exhibit 7

HARRIS & RUBLE

ATTORNEYS AND COUNSELORS AT LAW

SOUTHERN CALIFORNIA OFFICE:

655 NORTH CENTRAL AVE 17th FL
GLENDALE CA 91203
TELEPHONE: 323.962.3777
FAX: 323.962.3004
www.harrisandruble.com

ALAN HARRIS

PRIYA MOHAN
DAVID GARRETT
MIN JI GAL
LIN ZHAN

NORTHERN CALIFORNIA OFFICE:

116 E. BLITHEDALE AVE SUITE 2
MILL VALLEY, CA 94941
TELEPHONE: 312.543.0967
FAX: 323.962.3004

SUBMITTED ONLINE

November 18, 2021

California Labor & Workforce Development Agency

Re: *Eric Ulbrich et al. v. Ayzenberg Group, Inc. et al.* – PAGA Notice

To whom it may concern:

Pursuant to the applicable provisions of the California Labor Code Private Attorneys General Act, Plaintiff Eric Ulbrich hereby alleges with respect to his employment with Ayzenberg Group, Inc., Eric Ayzenberg, Adriane Zaudke, and Kristen Vaik Vazquez (collectively, “Defendants”), that Defendants violated provisions of the California Labor Code. The facts and circumstances concerning the alleged violations are outlined in the enclosed Complaint.

Please advise whether you will proceed with an investigation of this matter or whether Plaintiff may seek a civil-penalty recovery for the alleged violations under the Labor Code Private Attorneys General Act through his private counsel.

Very truly yours,



Alan Harris
Enclosures

Cc: (Via Certified Mail) Ayzenberg Group, Inc., Eric Ayzenberg, Adriane Zaudke, Kristen Vaik Vazquez, c/o Sheppard, Mullin, Richter & Hampton LLP, Michael Campbell, Ronda Jamgotchian, Raymond Nhan, 1901 Avenue of the Stars, Ste. 1600, Los Angeles, CA 90067-6017.

1 Alan Harris (SBN 146079)
2 David Garrett (SBN 160274)
3 Lin Zhan (SBN 317087)
4 HARRIS & RUBLE
5 655 North Central Avenue 17th Floor
6 Glendale California 91203
7 Tel: 323.962.3777
8 Fax: 323.962.3004
9 harrisa@harrisandruble.com
10 dgarrett@harrisandruble.com
11 lzhan@harrisandruble.com

12 Attorneys for Plaintiff Eric Ulbrich

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ERIC ULBRICH, an individual, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

AYZENBERG GROUP, INC., a California
Corporation; ERIC AYZENBERG, an
individual; ADRIANE ZAUDKE, an
individual; KRISTEN VAIK VAZQUEZ, an
individual; and DOE 1 through and including
DOE 10,

Defendants.

Case No:

COMPLAINT

[PAGA Representative Action]

1. Cal. Lab. Code §2698 et seq., PAGA

COURT TRIAL

1 Plaintiff Eric Ulbrich by and through his undersigned attorneys, alleges as follows:

2 **JURISDICTION AND VENUE**

3 1. This is a representative action brought under the California Labor Code Private Attorneys
4 General Act (“PAGA”), seeking relief under state law on account of unpaid wages, unpaid overtime,
5 damages, continuing wages, liquidated damages, penalty, restitution and attorneys’ fees and costs.
6 action in court found in codes other than the Code of Civil Procedure.

7 2. Venue as to Defendants is proper in this judicial district, pursuant to California Business
8 & Professions Code section 17203 and California Code of Civil Procedure sections 395(a) and 395.5.
9 Defendants maintain an office, transact business, have an agent, or are found in the County of Los
10 Angeles and are within the jurisdiction of this Court for purposes of service of process.

11 **INTRODUCTION**

12 3. Plaintiff Eric Ulbrich (“Plaintiff” or “Ulbrich”) is an individual, who, during the time
13 periods relevant to this Complaint, was and is a resident of the County of Los Angeles, State of
14 California.

15 4. Defendant AYZENBERG GROUP, INC. (“Ayzenberg Group”) is a California
16 corporation, which at all times relevant herein, conducted business within the County of Los Angeles of
17 the State of California.

18 5. Defendant Eric Ayzenberg (“Ayzenberg”) is an individual, who at all times relevant
19 herein, conducted business within the County of Los Angeles of the State of California. He is the CEO
20 and Founder of Ayzenberg Group.

21 6. Defendant Adriane Zaudke (“Zaudke”) is an individual, who at all times relevant herein,
22 conducted business within the County of Los Angeles of the State of California. On the Pokemon
23 project to which reference is made herein, Zaudke was the Producer.

24 7. Defendant Kristen Vaik Vazquez (“Vazquez”) is an individual, who at all times relevant
25 herein, conducted business within the County of Los Angeles of the State of California. On the
26 Pokemon project, Zaudke was the Production Manager.

27 8. Defendants Doe One through and including Doe Ten are sued herein under the provisions
28 of section 474 of the California Code of Civil Procedure. Plaintiff is currently ignorant of the true

1 names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued
2 herein under fictitious names and therefore sue such defendants by such fictitious names. Plaintiff will
3 seek leave to amend this complaint to allege the true names and capacities of said fictitiously named
4 defendants when their true names and capacities have been ascertained. Plaintiff is informed and
5 believes and thereon alleges that each of the fictitiously named defendants is legally responsible in some
6 manner for the events and occurrences alleged herein, and for the damages suffered by the Class.

7 9. Plaintiff is informed and believes and thereon alleges that all defendants, including the
8 fictitious Doe defendants, were at all relevant times acting as actual agents, conspirators, ostensible
9 agents, alter egos, partners and/or joint venturers and/or employees of all other defendants, and that all
10 acts alleged herein occurred within the course and scope of said agency, employment, partnership, and
11 joint venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge,
12 consent authorization and ratification of their co-defendants; however, each of these allegations are
13 deemed “alternative” theories whenever not doing so would result in a contradiction with other
14 allegations.

15 10. Emergency Rule 9 as promulgated by the Judicial Council of California on insert date,
16 provides: “Notwithstanding any other law, the statutes of limitations and repose for civil causes of
17 action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.” The Advisory
18 Committee Comment notes that: “Emergency rule 9 is intended to apply broadly to toll any statute of
19 limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of
20 action” includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of
21 the code (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of
22 a civil nature”]) . . . The rule also applies to statutes of limitations on filing of causes of action in court
23 found in codes other than the Code of Civil Procedure.”

24 **GENERAL ALLEGATIONS**

25 11. Defendants employed Plaintiff and Aggrieved Employees as crew members for a
26 production entitled “Pokémon 25th Anniversary Trailer” (“Production”). In addition, Defendants
27 employed other Aggrieve Employees in the roles of Director, Director of Photography, Art Director and
28 or otherwise, requiring them to file agreements to work as faux Independent Contractors rather than as

employees, thereby seeking to deprive Plaintiff and other independent contractors of their rights as employees while also defrauding the fisc.

12. Plaintiff Ulbrich was hired to work from in or about December 6 to December 9, 2020 as a Director and Director of Photography on the Production. Once his employment ended, Defendants were required to pay him by the next week, no later than on or about December 17, 2020. However, his paycheck was not prepared until January 29, 2021.

13. Although Plaintiff should have been paid in full for the accrued minimum wages and overtime, issued legally compliant wage statements, and reimbursed for all expenses no later than as required by Code § 201.5, the payments were not made in timely fashion or with a proper wage statement.

14. Defendants failed to fully compensate Plaintiff and other nonexempt workers, including those who were misclassified as independent contractors, performing services on the Production or other such projects produced in California for Defendants (“Aggrieved Employees”). Plaintiff and the Aggrieved Employees worked on the Production as well as on other California motion picture projects, toiling more than eight hours in a single day and over forty hours in a work week, yet not being paid timely or with appropriate wage statements, all due to Defendant’s insufficient funding of the payroll accounting function and desire to make such payments from funds received for each project from clients rather than from working capital.

15. At all relevant times mentioned herein, Wage Order 12 of the California Industrial Welfare Commission applied to Plaintiff and Aggrieved Employees. In part, the Wage Order reflects employer obligations regarding hours and days of work, reporting time pay and records (obligations which the employer, here, failed to fulfill, both with respect to Plaintiff and Aggrieved Employees). The Wage Order provides, in relevant part:

3. Hours and Days of Work.

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1.5) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek.

Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime as follows:

(a) Employees may be employed up to a maximum of sixteen (16) hours including meal periods in any one day from the time they are required and do report until dismissed, provided the employee is compensated for such overtime at not less than:

(1) For daily employees and weekly employees, excluding weekly employees guaranteed more than forty (40) hours a workweek and "on call" employees, one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any one workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(2) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any workday, , and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(3) Overtime payments shall not be compounded and all payments made by the employer for daily overtime on the basis herein above specified shall be applied toward any sum for weekly overtime.

(4) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary. The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

...

7. Records.

(A) Every employer shall keep accurate information with respect to each employee including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the

1 employer for at least three years at the place of employment or at a central location within
2 the State of California. An employee's records shall be available for inspection by the
employee upon reasonable request.

3 Cal. Code Regs., Title 8 §§ 11110, 11120.

4 16. At all relevant times mentioned herein, section 201.5 of the California Labor Code
5 provided in part:

6 (a) For purposes of this section, the following definitions apply:

7 (1) "An employee engaged in the production or broadcasting of motion pictures" means
an employee to whom both of the following apply:

8 (A) The employee's job duties relate to or support the production or broadcasting of
9 motion pictures or the facilities or equipment used in the production or broadcasting of
motion pictures.

10 (B) The employee is hired for a period of limited duration to render services relating to or
supporting a particular motion picture production or broadcasting project, or is hired on
the basis of one or more daily or weekly calls.

11 (2) "Daily or weekly call" means an employment that, by its terms, will expire at the
12 conclusion of one day or one week, unless renewed.

13 (3) "Next regular payday" means the day designated by the employer, pursuant to Section
204, for payment of wages earned during the payroll period in which the termination
occurs.

14 (4) "Production or broadcasting of motion pictures" means the development, creation,
15 presentation, or broadcasting of theatrical or televised motion pictures, television
16 programs, commercial advertisements, music videos, or any other moving images,
including, but not limited to, productions made for entertainment, commercial, religious,
17 or educational purposes, whether these productions are presented by means of film, tape,
live broadcast, cable, satellite transmission, Web cast, or any other technology that is now
in use or may be adopted in the future.

18 (b) An employee engaged in the production or broadcasting of motion pictures whose
19 employment terminates is entitled to receive payment of the wages earned and unpaid at
the time of the termination **by the next regular payday**.

20 (c) The payment of wages to employees covered by this section may be mailed to the
employee or made available to the employee at a location specified by the employer in
21 the county where the employee was hired or performed labor. The payment shall be
deemed to have been made on the date that the employee's wages are mailed to the
22 employee or made available to the employee at the location specified by the employer,
whichever is earlier.

23 (d) For purposes of this section, an employment terminates when the employment
24 relationship ends, whether by discharge, lay off, resignation, completion of employment
for a specified term, or otherwise.

25 (e) Nothing in this section prohibits the parties to a valid collective bargaining agreement
26 from establishing alternative provisions for final payment of wages to employees covered
by this section if those provisions do not exceed the time limitation established in Section
27 204.

28 Cal. Lab. Code § 201.5. At all relevant times mentioned herein, sections 201.3 and 201.5 of the

1 California Labor Code controlled the final payment of wages to Plaintiff and the Aggrieved Employees.

2 17. At all relevant times mentioned herein, section 203 of the California Labor Code
3 provided:

4 If an employer willfully fails to pay, without abatement or reduction, in accordance with
5 Sections 201, 201.5, 202 and 202.5, any wages of an employee who is discharged or who
6 quits, the wages of the employee shall continue as a penalty from the due date thereof at
7 the same rate until paid or until action therefore is commence; but the wages shall not
continue for more than 30 days.

8 Cal. Lab. Code § 203.

9 18. By failing to pay Plaintiff and Aggrieved Employees all wages when due at the end of
10 employment, Plaintiff and Aggrieved Employees are entitled to continuing wages pursuant to section
203 of the California Labor Code.

11 19. At all times relevant herein, section 204 of the California Labor Code provided in part:

12 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
13 by any person in any employment are due and payable twice during each calendar month,
14 on days designated in advance by the employer as the regular paydays. Labor performed
15 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
16 the 16th and the 26th day of the month during which the labor was performed, and labor
performed between the 16th and the last day, inclusive, of any calendar month, shall be
paid for between the 1st and 10th day of the following month.

17 Cal. Lab. Code § 204.

18 20. In no event should Plaintiff or the Aggrieved Employees have been paid later than the
19 time periods established by sections 201.3 or 201.5 of the California Labor Code, but certain payments
20 to Plaintiff and the Aggrieved Employees were made months after they were due, or not at all, leading to
21 civil penalties under sections 203 and otherwise of the California Labor Code.

22 21. At all times relevant herein, section 210 of the California Labor Code provided:

23 In addition to, and entirely independent and apart from, any other penalty provided in this
24 article, every person who fails to pay the wages of each employee as provided in Sections
25 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
26 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
27 each employee; (b) For each subsequent violation, or any willful or intentional violation,
two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
amount unlawfully withheld.

28 Cal. Lab. Code § 210. Further, the Defendants' policy has been to devote insufficient manpower and

1 other resources to the payroll accounting function, with the inevitable result that employees are routinely
2 paid in tardy fashion, in violation of sections 201.3 and 203 of the California Labor Code.

3 22. At all relevant times mentioned herein, section 510(a) of the California Labor Code
4 provided:

5 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one
6 workday and any work in excess of 40 hours in any one workweek and the first eight
7 hours worked on the seventh day of work in any one workweek shall be compensated at
8 the rate of at least one and one-half times the regular rate of pay for an employee. Any
9 work in excess of 12 hours in one day shall be compensated at the rate of no less than
10 twice the regular rate of pay for an employee. In addition, any work in excess of eight
11 hours on any seventh day of a workweek shall be compensated at the rate of no less than
12 twice the regular rate of pay of an employee. Nothing in this section requires an employer
13 to combine more than one rate of overtime compensation in order to calculate the amount
14 to be paid to an employee for any hour of overtime work.

15 Cal. Lab. Code § 510.

16 23. Defendants failed to pay proper minimum wage or overtime to Plaintiff and Aggrieved
17 Employees.

18 24. At all relevant times mentioned herein, section 515(d)(2) of the California Labor Code
19 provided:

20 Payment of a fixed salary to a nonexempt employee shall be deemed to provide
21 compensation only for the employee's regular, nonovertime hours, notwithstanding any
22 private agreement to the contrary.

23 Cal. Lab. Code § 515(d)(2). Accordingly, a daily wage rate is "deemed to provide compensation only for
24 the employee's regular, nonovertime hours" too. Alvarado v. Dart Container Corp. of Cal., 4 Cal. 5th
25 542, 564–65 (2018), as modified (Apr. 25, 2018) ("the Legislature expressly endorsed the principle that
26 flat sum nonhourly compensation should be factored into an employee's regular rate of pay by dividing
27 the flat sum by the number of nonovertime hours that exist in the relevant period, and that the flat sum
28 compensates the worker for only nonovertime hours worked.") The California Supreme Court based its
holding on fundamental principles that "the obligation to pay premium pay for overtime work reflects a
state policy favoring an eight-hour workday and a six-day 40-hour workweek, and discouraging
employers from imposing work in excess of those limits." Alvarado, 4 Cal. 5th at 539.

25. At all relevant times mentioned herein, section 1194 of the California Labor Code

1 provided:

2 Notwithstanding any agreement to work for a lesser wage, any employee receiving less
3 than the legal minimum wage or the legal overtime compensation applicable to the
4 employee is entitled to recover in a civil action the unpaid balance of the full amount of
5 this minimum wage or overtime compensation, including interest thereon, reasonable
6 attorney's fees, and costs of suit.

7 Cal. Lab. Code § 1194.

8 26. Plaintiff and Aggrieved Employees were not timely paid the minimum wages and/or
9 overtime to which they were entitled. Accordingly, they are entitled to liquidated damages under
10 section 1194.2.

11 27. At all relevant times mentioned herein, section 558.1 of the California Labor Code
12 provided:

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

18 (b) For purposes of this section, the term "other person acting on behalf of an employer"
19 is limited to a natural person who is an owner, director, officer, or managing agent of the
20 employer, and the term "managing agent" has the same meaning as in subdivision (b) of
21 Section 3294 of the Civil Code.

22 (c) Nothing in this section shall be construed to limit the definition of employer under existing
23 law.

24 Cal. Lab. Code § 558.1. Defendants are the joint employers or other persons acting on behalf of an
25 employer who violated, or caused to be violated the relevant sections of the Code referenced herein.

26 28. At all relevant times mentioned herein, section 558 of the California Labor Code
27 provided:

28 Any employer or other person acting on behalf of an employer who violates, or causes to
be violated, a section of this chapter or any provision regulating hours and days of work
in any order of the Industrial Welfare Commission shall be subject to a civil penalty as
follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
each pay period for which the employee was underpaid in addition to an amount
sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred
dollars (\$100) for each underpaid employee for each pay period for which the employee
was underpaid in addition to an amount sufficient to recover underpaid wages. (3)
Wages recovered pursuant to this section shall be paid to the affected employee.

Cal. Lab. Code § 558. Defendants are the employers or other persons acting on behalf of an employer
who violated, or caused to be violated the relevant sections of the California Labor Code referenced

1 herein.

2 29. At all relevant times mentioned herein, section 226 of the California Labor Code
3 provided:

4 (a) An employer, semimonthly or at the time of each payment of wages, shall furnish to
5 his or her employee, either as a detachable part of the check, draft, or voucher paying the
6 employee's wages, or separately if wages are paid by personal check or cash, an
7 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
8 worked by the employee, except as provided in subdivision (j), (3) the number of piece-
9 rate units earned and any applicable piece rate if the employee is paid on a piece-rate
10 basis, (4) all deductions, provided that all deductions made on written orders of the
11 employee may be aggregated and shown as one item, (5) net wages earned, (6) the
12 inclusive dates of the period for which the employee is paid, (7) the name of the
13 employee and only the last four digits of his or her social security number or an
14 employee identification number other than a social security number, (8) the name and
15 address of the legal entity that is the employer and, if the employer is a farm labor
16 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
17 legal entity that secured the services of the employer, and (9) all applicable hourly rates
18 in effect during the pay period and the corresponding number of hours worked at each
19 hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary
20 services employer as defined in Section 201.3, the rate of pay and the total hours worked
21 for each temporary services assignment. The deductions made from payment of wages
22 shall be recorded in ink or other indelible form, properly dated, showing the month, day,
23 and year, and a copy of the statement and the record of the deductions shall be kept on
24 file by the employer for at least three years at the place of employment or at a central
25 location within the State of California. . . .

26 Cal. Lab. Code § 226. Defendants did not provide Plaintiff or other Aggrieved Employees wage
27 statements at all.

28 30. At all relevant times mentioned herein, section 2810.3 of the California Labor Code
provided:

(a) As used in this section:

(1) (A) "Client employer" means a business entity, regardless of its form, that obtains or
is provided workers to perform labor within its usual course of business from a labor
contractor.

...
(2) "Labor" has the same meaning provided by Section 200.

(3) "Labor contractor" means an individual or entity that supplies, either with or without
a contract, a client employer with workers to perform labor within the client employer's
usual course of business.

...
(4) "Wages" has the same meaning provided by Section 200 and all sums payable to an
employee or the state based upon any failure to pay wages, as provided by law.

(5) "Worker" does not include an employee who is exempt from the payment of an
overtime rate of compensation for executive, administrative, and professional employees
pursuant to wage orders by the Industrial Welfare Commission described in Section 515.

(6) "Usual course of business" means the regular and customary work of a business, performed within or upon the premises or worksite of the client employer.
(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:
(1) The payment of wages.
(2) Failure to secure valid workers' compensation coverage as required by Section 3700.
(c) A client employer shall not shift to the labor contractor any legal duties or liabilities under Division 5 (commencing with Section 6300) with respect to workers supplied by the labor contractor.
(d) At least 30 days prior to filing a civil action against a client employer for violations covered by this section, a worker or his or her representative shall notify the client employer of violations under subdivision (b).
(e) Neither the client employer nor the labor contractor may take any adverse action against any worker for providing notification of violations or filing a claim or civil action.
(f) The provisions of subdivisions (b) and (c) are in addition to, and shall be supplemental of, any other theories of liability or requirement established by statute or common law.
...

Cal. Lab. Code § 2810.3.

31. Plaintiff brings this action on behalf of himself and all others similarly situated as a PAGA action. Plaintiff seeks to represent Aggrieved Employees.

Numerosity

32. The potential number of Aggrieved Employees is great, but not so great as to make the class unmanageable.

33. Despite the number of Aggrieved Employees, their identity is readily ascertainable through an examination of the records that Defendants are required by law to keep and which they have kept. Likewise, the dollar amount owed to each Class Member is readily ascertainable by an examination of those same records.

34. There are questions of law and fact common to each Aggrieved Employee. These common questions of law and fact include, without limitation:

- a. Whether Defendants failed to pay all wages in a timely fashion in violation of sections 201.3, 201.5, 203 and/or 204 of the Code.
- b. Whether Defendants' failure to provide accurate itemized wage statements to each and every employee violates section 226(a).
- c. Whether Defendants' failure to provide meal breaks to each employee violates section 226.7 and 512.

1 d. Whether Defendants' failure to provide rest breaks to each and every employee violates
2 section 226.7.

3 35. The claims of the named Plaintiff are typical of the claims of each Aggrieved Employee,
4 which claims all arise from the same general operative facts, namely, Defendants did not compensate its
5 employees as required by the Code and applicable Wage Order. Plaintiff and Aggrieved Employees
6 sustained injuries and damages arising out of and caused by Defendants in violation of laws, regulations
7 that have the force and effect of law, and statutes as alleged herein.

8 36. Upon information and belief, Aggrieved Employees were not timely compensated in full
9 for their services. Plaintiff and the Aggrieved Employees consistently worked more than 6-hour and/or
10 12-hour shifts. However, they were required to keep their walkie talkies or radios on their persons,
11 turned on and audible at all times, including their rest periods and meal breaks and/or they were
12 precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are
13 entitled to an additional thirty minutes of wages for each faux meal break.

14 37. Defendants' failure to compensate Plaintiff and the Aggrieved Employees within the time
15 for which provision is made by section 201.5 of the California Labor Code, despite their knowledge of
16 their obligation to do so, was and is "willful" as the word is used in section 203.

17 38. Pursuant to section 203 of the California Labor Code, Plaintiff and the Aggrieved
18 Employees are entitled to civil penalties from Defendants in an amount according to proof. Plaintiff and
19 Aggrieved Employees are also entitled to recover costs and reasonable attorneys' fees under section
20 218.5 of the California Labor Code.

21 39. Defendants failed to provide Plaintiff and the Aggrieved Employees with wage
22 statements conforming to the requirements of section 226(a) of the Code.

23 40. The foregoing was intentional misconduct of Defendants that injured Plaintiff and
24 Aggrieved Employees insofar as they were deprived of information to which they were legally entitled,
25 including but not limited to, hours worked, the inclusive dates of the pay period, the name and address
26 of the legal entity that is the employer, and all applicable rates of pay.

27
28 41. The failure of Defendants to provide compliant wage statements violates section 226(a)

1 of the Code. The failure caused Plaintiff injury by depriving him of information to which he is legally
2 entitled. Accordingly, Plaintiff and Aggrieved Employees are entitled to civil penalties in an amount
3 according to proof and costs and reasonable attorney's fees in accordance with the provisions of Code,
4 all in a sum according to proof.

5 42. Plaintiff, as well as the Aggrieved Employees, worked many hours for Defendants,
6 including overtime, without compensation for work performed, as required by law.

7 43. Plaintiff and the Aggrieved Employees are entitled to civil penalties, costs, and
8 reasonable attorneys' fees under the California Labor Code.

9 44. Labor Code section 226.7 requires an employer to pay an additional hour of
10 compensation for each meal period the employer fails to provide a timely and uninterrupted meal period.
11 Employees are entitled to meal period of at least thirty 30 minutes per 5-hour work period.

12 45. Upon information and belief, Aggrieved Employees the Aggrieved Employees have not
13 been timely compensated in full for their services. Plaintiff and the Aggrieved Employees consistently
14 worked more than 6-hour and/or 12-hour shifts. However, they were required to keep their walkie
15 talkies or radios on their persons, turned on and audible at all times, including their rest periods and meal
16 breaks and/or they were precluded from leaving the set during their breaks. Accordingly, they were
17 denied their breaks and are entitled to an additional thirty minutes of wages for each faux meal break.

18 46. Pursuant to Labor Code section 226.7, Plaintiff and Class Members are entitled to civil
19 penalties, in an amount according to proof.

20 47. Labor Code Section 226.7 requires an employer to pay an additional hour of
21 compensation for each rest period the employer fails to provide a compliant rest period. Employees are
22 entitled to a rest period of ten minutes for every four hours worked or major fraction thereof.

23 48. Upon information and belief, Aggrieved Employees the Aggrieved Employees have not
24 been timely compensated in full for their services. Plaintiff and the Aggrieved Employees consistently
25 worked more than 6-hour and/or 12-hour shifts. However, they were required to keep their walkie
26 talkies or radios on their persons, turned on and audible at all times, including their rest periods and meal
27 breaks and/or they were precluded from leaving the set during their breaks. Accordingly, they were
28 denied their breaks and are entitled to an additional thirty minutes of wages for each faux rest break.

49. Pursuant to Labor Code section 226.7, Plaintiff and the Aggrieved Employees are entitled to civil penalties, in an amount according to proof.

50. Pursuant to Labor Code sections 226(b), 432 and 1198.5 an employer shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer.

51. Plaintiff have requested that Defendants permit inspection or copying of their employment records pursuant to Labor Code sections 226(b), 432 or 1198.5. Defendants have failed to provide Plaintiff with an opportunity to inspect or copy their employment records within the time permitted by law.

52. Pursuant to the Labor Code Plaintiff is entitled, and hereby seeks to recover from Defendants a civil penalty for each violation, reasonable attorney's fees, and the costs of bringing this cause of action.

FIRST CAUSE OF ACTION

California Labor Code § 2698 et seq. Civil Penalties
(On Behalf of Plaintiff, the California Labor & Workforce Development Agency and Aggrieved
Employees Against Defendants)

53. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

54. Pursuant to section 2699.3(a)(1) of the Labor Code, on November 18, 2021, Plaintiff submitted their PAGA Claim Notice online to the California Labor and Workforce Development Agency (“LWDA”) and notified the LWDA of the specific provisions of the Labor Code alleged to have been violated by Defendants, including the theories set forth in the Complaint. Also, on that day, Plaintiff gave written notice by certified mail to Defendants’ Registered Agents for Service of Process of the specific provisions of the Labor Code alleged to have been violated by Defendant.

55. Plaintiff seeks to represent all Aggrieved Employees, defined as Plaintiff and/or other persons who performed services on the Production or other such projects produced in California for Defendants during the period of time commencing one year prior to the filing of the Complaint.

56. At all relevant times, California Labor Code section 2699.3(a)(2)(A) provided:

The agency shall notify the employer and the aggrieved employee or representative by certified

mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to Paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to Paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

Cal. Lab. Code § 2699.3(a)(2)(A).

57. When sixty-five (65) calendar days of the postmark date of the notice sent by Plaintiff have passed, Plaintiff will “commence a civil action pursuant to Section 2699.” Cal. Lab. Code § 2699.3(a)(2)(A).

58. Plaintiff contends that sections 201.5, 203, 204, 226, 226.7, 226.8, 510, 512, 515, 558, 558.1, 1194, 1197, 1198, 2802, and 2699 et seq. of the Labor Code enables them to recover civil penalties under PAGA, as well as attorney’s fees and costs, from Defendants, through a civil action on behalf of themselves and other Aggrieved Employees.

59. 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, 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required.

60. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code provisions, among others:

61. Failure to timely pay wages during employment to Plaintiff and Aggrieved Employees in violation of Labor Code §§ 201.3, 201.5, 204 and/or 210. Plaintiff was not compensated weekly for wages earned by the times prescribed by the Code. Plaintiff contends that the failure of Defendants to make timely payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 210 of the California Labor Code and that, accordingly, each Aggrieved Employee who was not timely paid his or her timely wages during their employment is entitled to civil penalty. Labor Code section 210 provides for a penalty of \$100 for each initial violation and \$200 for each subsequent, or willful or intentional violation plus 25 percent of the amount unlawfully withheld.

62. Failure to pay wages and/or final wages to Plaintiff and Aggrieved Employees in violation of Labor Code §§ 201.5 and 203. With respect to violations of Labor Code § 201.5, Plaintiff contends that the failure of Defendants to make final payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 203 of the California Labor Code and that, accordingly, each Aggrieved Employee who was not timely paid his or her final wages is

1 entitled to civil penalties. Labor Code section 2699(f)(2) imposes a civil of \$100 per pay period per
2 Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for
3 subsequent violations for all Labor Code provisions for which a civil penalty is not specifically
4 provided.

5 63. Failure to provide compliant itemized wage statements to Plaintiff and Aggrieved
6 Employees in violation of Labor Code § 226(a). Plaintiff and other Aggrieved Employees have not been
7 provided a wage statement as required by Labor Code section 226(a). The foregoing was the intentional
8 misconduct of Defendants that was intended to mislead and injure Plaintiff and other Aggrieved
9 Employees insofar as they were subjected to confusion and deprived of information to which they were
10 legally entitled. Section 226(e) provides that any employee who suffers injury as a result of a knowing
11 and intentional failure by the employer to comply with its obligation to provide wage statements
12 containing all of the information referenced above is entitled to recover the greater of his actual damages
13 or \$50 for the first violation by the employer. The employee is also entitled to recover \$100 for each
14 violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000.

15 64. Failure to provide proper rest and meal periods to Plaintiff and Aggrieved Employees.
16 Plaintiff and Aggrieved Employees were not provided with timely meal and rest periods in violation of
17 Labor Code section 226.7 and the applicable Living Wage Order sections 11 and 12. Labor Code section
18 226.7 requires “one additional hour of pay at the employee’s regular rate of compensation for each
19 workday that the meal or rest or recovery period is not provided.”

20 65. Failure to reimburse necessary business expenses under Labor Code § 2802. Plaintiff and
21 Aggrieved Employees were not reimbursed for necessary business expenses. Labor Code 2699 et seq.
22 imposes a civil penalty of one hundred dollars per pay period per aggrieved employee for initial
23 violations, and two hundred dollars per pay period per aggrieved employee for subsequent violations for
24 all Labor Code provisions for which a civil penalty is not specifically provided.

25 66. Improper classification of employees as independent contractors in violation of Labor
26 Code § 226.8. Plaintiff and Aggrieved Employees were willfully misclassified as independent
27 contractors even though they were not exempt employees. Labor Code section 226.8 requires “a civil
28 penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars

1 (\$15,000) for each violation, in addition to any other penalty or fines permitted by law.” If the employer
2 is found to have engaged in a “pattern or practice” of misclassifying employees, it is subject to a “civil
3 penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars
4 (\$25,000) for each violation, in addition to any other penalty or fines permitted by law.” Cal. Lab. Code
5 § 226.8(c).

6 67. Failure to pay minimum and overtime wages to Plaintiff and Aggrieved Employees in
7 violation of Labor Code §§ 510, 558, 1194, and 1198. Both late payment and non-payment of minimum
8 wages violate the state statute requiring the payment of a minimum hourly wage. Labor Code section
9 558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for
10 initial violations for each underpaid employee for each pay period for which the employee was
11 underpaid in addition to an amount sufficient to recover unpaid wages, and one hundred (\$100) for
12 subsequent violations for each underpaid employee for each pay period for which the employee was
13 underpaid in addition to an amount sufficient to recover underpaid wages.

14 68. Failure to keep complete and accurate payroll records. Failure to keep complete and
15 accurate payroll records relating to Plaintiff and Aggrieved Employees in accordance with California
16 Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor
17 Code section 1174(d).

18 69. With respect to violations of Labor Code sections 201.5 and 203 Plaintiff contend that the
19 failure of Defendants to make payments within the time provided for has been and is “willful” within the
20 meaning of such word as used in Section 203 of the California Labor Code and that, accordingly, each
21 Aggrieved Employee who was not timely paid his or her final wages is entitled to civil penalty for which
22 provision is made in Section 210 of the Labor Code on account of violations of section 204.

23 70. Labor Code § 2699(f) imposes a civil penalty of one hundred dollars (\$100) per pay
24 period, per Aggrieved Employee for initial violations, and two hundred dollars (\$200) per pay period,
25 per Aggrieved Employee for subsequent violations for all Labor Code provisions for which a civil
26 penalty is not specifically provided.

27 **WHEREFORE**, Plaintiff pray judgment as follows:

28 1. That the Court certify the Class.

1 2. That, under the First Cause of Action this Court award Plaintiff, the State of California,
2 and other former and current Aggrieved Employees their civil penalty, attorney's fees, and costs of suit,
3 all according to proof, pursuant to sections 201.3, 201.5, 203, 204, 210, 226, 226.7, 226.8, 510, 512,
4 515, 558, 558.1, 1174, 1194, 1194.2, 1197, 1198, 2802 and 2699 et seq. of the Labor Code and the
5 applicable Wage Orders as heretofore articulated.

6 For such further relief as the Court may order, including attorney's fees, costs, and interest
7 pursuant to Labor Code sections 218.5 and 218.6, and Code of Civil Procedure section 1021.5, in an
8 amount according to proof.

9 DATED: November 18, 2021

HARRIS & RUBLE

Alan Harris

Alan Harris
Attorney for Plaintiff