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10 *Attorneys for Plaintiff and other*
11 *similarly situated Aggrieved Employees*

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF ALAMEDA**

14 LAVELLE ALDERSON, in a representative
15 capacity on behalf of all other similarly
16 situated aggrieved employees,

17 Plaintiff,

18 vs.

19 OFF DUTY SERVICES, INC., a Texas
20 corporation,

21 Defendant.

22 **FILED BY FAX**

23 ALAMEDA COUNTY

24 July 21, 2021

25 CLERK OF
26 THE SUPERIOR COURT
27 By Cheryl Clark, Deputy

28 CASE NUMBER:

RG21106370

CASE NO.

REPRESENTATIVE ACTION

COMPLAINT

**1. PRIVATE ATTORNEYS GENERAL
ACT (Labor Code §§ 2698, et seq.)**

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I. INTRODUCTION

1. Plaintiff Defendant LAVELLE ALDERSON (“Plaintiff”) worked as a security guard for Defendant OFF DUTY SERVICES, INC. (“Defendant”), fulfilling Defendant’s security contracts at various businesses located in California.

2. Plaintiff and other similarly situated aggrieved employees were required by Defendant to download an application called OfficerTRAK onto their personal cell phones. Plaintiff and other aggrieved employees were required to use OfficerTRAK to clock in and out of their shifts. OfficerTRAK also tracked the location of Plaintiff and other aggrieved employees before and during their shifts.

3. Defendant did not reimburse Plaintiff and other aggrieved employees for cell phone expenses incurred through their use of OfficerTRAK. This practice violated Labor Code section 2802.

4. Plaintiff brings a claim seeking penalties under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698 et seq., on a representative basis, on behalf of all current and former aggrieved employees.

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II. PARTIES

5. Plaintiff Lavelle Alderson was employed by Defendant as a security guard from approximately March 1, 2020 until December 3, 2020.

6. Defendant is a Texas corporation providing contract security services. Defendant regularly conducts business in Alameda County and the State of California.

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III. JURISDICTION AND VENUE

7. This Court has jurisdiction over the causes of action alleged herein pursuant to the California Constitution, Article VI, section 10 and California Code of Civil Procedure section 410.10, because this case alleges violations of California law.

8. Venue is proper in this judicial district, pursuant to Code of Civil Procedure section 395(a). The unlawful acts alleged herein have occurred in and have a direct effect similarly situated Aggrieved Employees situated within the State of California and Alameda

County. (See *Crestwood Behavioral Health, Inc. v. The Superior Court of Alameda County* (2021) 60 Cal.App.5th 1069.)

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Pursuant to Labor Code section 2699.3(a), on May 12, 2021, Plaintiff gave notice by electronic filing and by certified mail to Defendant and the Labor Workforce Development Agency (“LWDA”) of the factual and legal basis for the labor law violations alleged in this complaint.

10. Sixty-five calendar days have passed from the date of Plaintiff’s LWDA notice.

V. FACTUAL ALLEGATIONS

11. Defendant provides contract security services at business locations throughout California. In order to fulfill their security contracts, Defendant employed Plaintiff and other similarly situated Aggrieved Employees as security guards in California. Some of the security jobs posted by Defendant and worked by Aggrieved Employees were located in Alameda County.

12. Defendant required Plaintiff and other Aggrieved Employees to download an application called OfficerTRAK to their personal cell phones. Defendant did not provide Plaintiff or other Aggrieved Employees with a cell phone for work purposes.

13. Plaintiff and other similarly situated Aggrieved Employees were required to use OfficerTRAK to clock in and out of their shifts. OfficerTRAK also tracked Plaintiff and other Aggrieved Employees before and during their shifts. Defendant did not provide Plaintiff or other Aggrieved Employees with any kiosk, computer, or other method of clocking in and out at the jobsite.

14. Defendant also required Plaintiff and other Aggrieved Employees to use their personal cell phone to communicate with supervisors during and outside of shifts.

15. Plaintiff incurred costs as a result of being required to use his personal cell phone for these business purposes.

16. Defendant did not reimburse Plaintiff for these incurred costs as required by Labor Code section 2802.

1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Penalties Under the Private Attorneys General Act**
4 **(Labor Code §§ 2698, *et seq.*)**

5 17. The allegations of each of the preceding paragraphs are realleged and
6 incorporated herein by reference.

7 18. Pursuant to Labor Code section 2699.3(a), on May 12, 2021, Plaintiff gave notice
8 by electronic filing and by certified mail to Defendant and the Labor Workforce Development
9 Agency (“LWDA”) of the factual and legal basis for the labor law violations alleged in this
10 complaint. The LWDA has not provided notice pursuant to Labor Code section 2699.3(a)(2)(A),
11 and sixty-five calendar days have passed since the postmark date of Plaintiff’s amended LWDA
12 notice. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section
13 2699.

14 19. Labor Code section 2699(g)(1) provides, in pertinent part: “[A]n aggrieved
15 employee may recover the civil penalty described in subdivision (f) in a civil action . . . filed on
16 behalf of himself or herself and other current or former employees against whom one or more of
17 the alleged violations was committed. Any employee who prevails in any action shall be entitled
18 to an award of reasonable attorney’s fees and costs.”

19 20. Plaintiff is an aggrieved employee as defined by Labor Code section 2699(a).

20 21. Plaintiff’s cause of action under Labor Code section 2698, *et seq.* is based on
21 violations of Labor Code section 2802, based on Defendant’s failure to reimburse Plaintiff and
22 other aggrieved employees for expenses incurred in using their personal cell phones for
23 necessary business purposes.

24 22. As a direct and proximate result of Defendant’s unlawful practices and policies,
25 Plaintiff and other aggrieved employees have suffered and continue to suffer monetary losses.

26 23. Plaintiff, on behalf of himself and all other aggrieved employees, requests civil
27 penalties against Defendant for violations of the Labor Code, as provided under Labor Code
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1 section 2699(f), plus reasonable attorneys' fees and costs, as provided under Labor Code section
2 2699(g)(1), in amounts to be proved at trial.

3 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth below.

4 **VII. PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff on behalf of himself and all other aggrieved employees requests
6 relief as follows:

- 7 1. An award of civil penalties under Labor Code section 2698, *et seq*; and
- 8 2. An award to Plaintiff of reasonable attorneys' fees and costs, pursuant to Code of
9 Civil Procedure section 1021.5 and Labor Code section 2699(g) and/or other
10 applicable law.

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12 DATED: July 21, 2021

HUNTER PYLE LAW

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14 By: 

Hunter Pyle
John J. Darin

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16 *Attorneys for Plaintiff and other*
17 *similarly situated Aggrieved Employees*
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