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Attorneys for Plaintiff CHRISTOPHER VALENCIA,
on behalf of himself and other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHRISTOPHER VALENCIA, on behalf of
himself and other aggrieved employees,

Plaintiff,

vs.

AMAZON.COM SERVICES LLC, a
Delaware Limited Liability Company;
and DOES 1 through 10, inclusive,

Defendants.

CASE NO. **21TRCV00672**

**COMPLAINT FOR RECOVERY OF CIVIL
PENALTIES PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
("PAGA")**

- 1. PAGA CIVIL PENALTIES FOR
FAILURE TO PAY OVERTIME
WAGES**
- 2. PAGA CIVIL PENALTIES FOR
FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS**
- 3. PAGA CIVIL PENALTIES FOR
FAILURE TO TIMELY PAY ALL
WAGES DUE UPON SEPARATION
FROM EMPLOYMENT**

1 Plaintiff CHRISTOPHER VALENCIA (“Plaintiff”), on behalf of himself and other
2 aggrieved employees and as a Representative of the State of California’s Labor and Workforce
3 Development Agency (“LWDA”), alleges as follows:

4 **I.**

5 **INTRODUCTION**

6 1. Plaintiff brings this proposed PAGA Representative Action against his former
7 employers Amazon.com Services LLC and Does 1 through 10 (collectively “Defendants”)
8 under the California Labor Code to recover civil penalties for Defendants’ failure to provide
9 overtime and final wages and compliant wage statements.

10 2. Plaintiff brings this lawsuit as a PAGA Representative Action on behalf of the
11 state of California and aggrieved current and former non-exempt employees including, but not
12 limited to, Associates. Pursuant to Labor Code sections 2698, *et seq.*, Plaintiff seeks to recover
13 civil penalties and reasonable attorney’s fees and costs. Plaintiff, by operation of law, has
14 standing and capacity to sue as a representative of the State of California. Plaintiff mailed
15 written notice of the specific provisions of the Labor Code that Defendants violated, including
16 facts and theories to support the allegations, to the LWDA and to Defendant Amazon.com
17 Services LLC pursuant to Labor Code section 2699.3 on June 22, 2021. Amazon.com Services
18 LLC did not provide notice of cure and the LWDA did not provide notice of investigation in the
19 65 days after the PAGA notice was mailed.

20 **II.**

21 **JURISDICTION AND VENUE**

22 3. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
23 Civil Procedure section 395. Defendants conduct business in the city and county of Los Angeles
24 in the state of California and each Defendant is within the jurisdiction of this Court for service
25 of process purposes. The unlawful acts alleged have a direct effect on Plaintiff and other
26 employees within the State of California and Los Angeles County. Defendants employ
27 numerous employees in Los Angeles County and in California generally. There is no federal
28 question at issue for removal under 28 U.S.C. section 1331, as the issues herein are based solely

on California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure. Further, PAGA civil penalty actions are not subject to federal jurisdiction.

III.

THE PARTIES

4. Plaintiff CHRISTOPHER VALENCIA is a former non-exempt hourly employee of Defendants. At all relevant times, he was employed by Defendants as a Level 1 Associate in Los Angeles County from September 28, 2020 through July 10, 2021.

5. Plaintiff is an “aggrieved employee” because he was employed by the alleged violators and had one or more of the alleged violations committed against him and, therefore, is properly suited to represent the interests of all other current and former non-exempt employees of Defendants.

6. Pursuant to Cal Labor Code sections 2698, *et seq.*, Plaintiff seeks to represent all current and former non-exempt employees who suffered one or more of the alleged violations (“aggrieved employees”) during the applicable limitations period, or “PAGA Period” (any time from one year and 65 days before the complaint filing date until trial).

7. Plaintiff is informed and believes Defendant Amazon.com Services LLC is a Delaware Limited Liability Company operating in the warehousing and storage industry. Amazon.com Services LLC employs hourly non-exempt employees, including Associates, throughout California, including throughout Los Angeles County.

8. Defendants are employers of Plaintiff, or persons acting on behalf of Plaintiff’s employer, who violated, or caused to be violated, any provision regulating overtime wages and hours and days of work in the applicable Industrial Welfare Commission order, pursuant to Labor Code section 558, as well as California Labor Code sections 203 and 226, pursuant to Labor Code section 558.1, and as such, are liable as employers of Plaintiff.

9. During the PAGA Period, Defendants did, and do, transact and conduct business in the state of California, including, but not limited to, within the jurisdiction of the Court. During the PAGA Period, each Defendant employed Plaintiff and other aggrieved employees for purposes of the California wage and hour laws at issue in this action.

10. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged of Defendants sued as DOES 1 through 10, but is informed and believes, and based on that alleges, DOE Defendants are legally responsible for the wrongful conduct alleged, and sues these Defendants by such fictitious names. Plaintiff will amend this complaint when their true names and capabilities are ascertained.

11. Plaintiff is informed and believes and, based thereon alleges, that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes, and based thereon alleges, 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.

IV.

GENERAL ALLEGATIONS

12. During the PAGA Period, Plaintiff and other aggrieved current and former employees were employed by Defendants and each of them, including Doe Defendants, within the state of California.

13. During the PAGA Period, Plaintiff and other aggrieved employees of Defendants worked under the same policies, practices, and procedures relating to their employment, including those governing wage statements and payment of overtime wages and final wages.

14. Plaintiff and all other aggrieved employees were non-exempt employees covered under one or more IWC Wage Order(s), and Labor Code section 510, and/or other applicable wage orders, regulations and statutes, and each aggrieved employee was not subject to an exemption for executive, administrative, professional employees, or any other exemption, which imposed an obligation on the part of the Defendants to pay Plaintiff and each aggrieved employee lawful overtime compensation, as well as to provide accurate itemized wage statements and timely final wages.

15. Plaintiff and other aggrieved employees worked in excess of the maximum

1 regular rate hours set by the applicable IWC Wage Order(s), regulations, or statutes, and are
2 therefore entitled to appropriate overtime compensation at one and one-half times their regular
3 rate of pay, and when applicable, double-time rates at two times their regular rate of pay.

4 16. During the PAGA Period, Defendants failed to incorporate all required forms of
5 compensation into Plaintiff's and other aggrieved employees' regular rates of pay to calculate
6 their overtime wages. Thus, overtime wages were underpaid. For instance, Plaintiff and other
7 aggrieved employees earned non-discretionary, performance-based bonuses called "Supplemt
8 Cash" in weeks that they earned overtime wages, but these non-discretionary bonuses were not
9 factored into employees' regular rates of pay for the purpose of calculating their overtime
10 wages. Rather, in these weeks, Plaintiff and other aggrieved employees were only paid their
11 overtime wages at exactly one and one-half times their regular hourly rate. Plaintiff and other
12 aggrieved employees received these "Supplemt Cash" bonuses when they worked for a certain
13 period of time without missing excessive work days.

14 17. During the PAGA Period, Defendants did not furnish wage statements under
15 Section 226(a) because Defendants only provided the wage statements online, and did not
16 inform Plaintiff and other aggrieved employees that they could receive paper copies of their
17 wage statements and that they could print out copies of their wage statements on work
18 computers at no charge. The wage statements issued by Defendants were also deficient in
19 several respects. In violation of Labor Code section 226(a)(8), before January 2021, Defendants
20 did not list the correct employer entity address of 410 Terry Ave N, Seattle, WA 98109, instead
21 listing the address as PO BOX 80726 SEATTLE, WA 98108. In violation of Labor Code
22 sections 226(a)(1), (4), and (5), Defendants did not accurately list the gross wages earned, all
23 deductions, and net wages earned. Plaintiff and other aggrieved employees were told that they
24 could earn "Supplemt Cash" bonuses of \$500 but only received these bonuses for \$250. When
25 Plaintiff asked why this was, Defendants informed him that Defendants deduct \$250 for taxes.
26 However, Plaintiff and other aggrieved employees' wage statements only show a bonus of
27 \$250, with no reference to the deductions made, and are thus inaccurate.

28 18. During the PAGA Period, because Defendants failed to pay all correctly-

1 calculated overtime wages to Plaintiff and other aggrieved employees, final wages paid to
2 Plaintiff and other aggrieved employees were also underpaid. Thus, Defendants willfully failed
3 to timely pay all final wages owed in violation of Labor Code sections 201-202, and failed to
4 pay waiting time penalties for this failure in violation of Labor Code section 203.

5 V.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**

8 **Civil Penalties Under the PAGA for Failure to Pay Overtime Wages**
9 **(Labor Code § 510 and the applicable IWC Wage Order(s))**
10 **(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

11 19. Plaintiff incorporates the preceding paragraphs of this Complaint.

12 20. Labor Code section 510, states in pertinent part: “Any work in excess of eight
13 hours in one workday and any work in excess of 40 hours in any one workweek and the first
14 eight hours worked on the seventh day of work in any one workweek shall be compensated at
15 the rate of no less than one and one-half times the regular rate of pay for an employee. Any
16 work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the
17 regular rate of pay for an employee. In addition, any work in excess of eight hours on any
18 seventh day of a workweek shall be compensated at the rate of no less than twice the regular
19 rate of pay of an employee.”

20 21. Labor Code section 2699(a) provides: “Notwithstanding any other provision of
21 law, any provision of this code that provides for a civil penalty to be assessed and collected by
22 the Labor and Workforce Development Agency or any of its departments, divisions,
23 commissions, boards, agencies, or employees, for a violation of this code, may, as an
24 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
25 himself or herself and other current or former employees pursuant to the procedures specified in
26 Section 2699.3.”

27 22. Labor Code section 2699(f) states: “For all provisions of this code except those
28 for which a civil penalty is specifically provided, there is established a civil penalty for a
violation of these provisions, as follows... (2) If, at the time of the alleged violation, the person

1 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each
2 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for
3 each aggrieved employee per pay period for each subsequent violation.”

4 23. As set forth herein, during the PAGA Period, Defendants did not pay employees
5 all correctly-calculated overtime wages for all applicable hours worked.

6 24. Defendants violated Labor Code section 510 and the “Overtime Wages” section
7 of the applicable Wage Order(s). As a result, Plaintiff is entitled to recover civil penalties
8 pursuant to Labor Code sections 558(a)(1)-(2) and 2699(a) or, in the alternative, section
9 2699(f)(2), and attorney’s fees, expenses, and costs of suit.

10 25. Plaintiff, as a representative of the general public, will and does seek to recover
11 any and all penalties for each and every violation, in an amount according to proof, as to those
12 penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance
13 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
14 of California.

15 **SECOND CAUSE OF ACTION**

16 **Civil Penalties Under the PAGA for Failure to Provide Accurate Itemized Wage**
17 **Statements**

18 **(Labor Code § 226)**

19 **(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

20 26. Plaintiff incorporates the preceding paragraphs of this Complaint.

21 27. Labor Code section 226(a) states in pertinent part: “An employer, semimonthly
22 or at the time of each payment of wages, shall furnish to his or her employee, either as a
23 detachable part of the check, draft, or voucher paying the employee’s wages, or separately if
24 wages are paid by personal check or cash, an accurate itemized statement in writing showing”:
25 (1) gross wages earned; (2) total hours worked by the employee, except for any employee
26 whose compensation is solely based on a salary and who is exempt from payment of overtime
27 under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
28 Commission; (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, provided that all deductions made on

1 written orders of the employee may be aggregated and shown as one item; (5) net wages earned;
2 (6) the inclusive dates of the period for which the employee is paid; (7) the name of the
3 employee and only the last four digits of his or her social security number or an employee
4 identification number other than a social security number; (8) the name and address of the legal
5 entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate by the employee. "The
7 deductions made from payment of wages shall be recorded in ink or other indelible form,
8 properly dated, showing the month, day, and year, and a copy of the statement and the record of
9 the deductions shall be kept on file by the employer for at least three years at the place of
10 employment or at a central location within the State of California."

11 28. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
12 of civil penalties for violations of the labor code, to be recovered through a civil action brought
13 by an aggrieved employee on behalf of himself or herself and other current or former
14 employees pursuant to the procedures specified in Section 2699.3.

15 29. As alleged herein, during the PAGA Period, Defendants knowingly and
16 intentionally failed to comply with Labor Code section 226(a) by failing to adequately provide
17 wage statements, by failing to include the correct employer address on wage statements
18 provided at least until January 2021, and by failing to include the correct gross and net wages
19 earned and all deductions taken.

20 30. Labor Code section 226.3 provides for civil penalties for violations of the Labor
21 Code section 226. The civil penalty is \$250 for the initial violation and \$1,000 for each
22 subsequent violation.

23 31. Defendants violated Labor Code section 226. As a result, Plaintiff is entitled to
24 recover civil penalties pursuant to Labor Code sections 226.3 and 2699(a) or, in the alternative,
25 section 2699(f)(2), and attorney's fees, expenses, and costs of suit.

26 32. Plaintiff, as a representative of the general public, will and does seek to recover
27 any and all penalties for each and every violation, in an amount according to proof, as to those
28 penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance

1 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
2 of California.

3 **THIRD CAUSE OF ACTION**

4 **Civil Penalties Under the PAGA for Failure to Timely Pay All Wages Due Upon**
5 **Separation from Employment**
6 **(Labor Code §§ 201-203)**
7 **(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

8 33. Plaintiff incorporates the preceding paragraphs of this Complaint.

9 34. An employer who discharges an employee must pay all compensation due and to
10 that employee immediately upon discharge. Labor Code § 201. An employer must pay all
11 compensation due to an employee who quits within 72 hours. Labor Code § 202. If an employer
12 willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the
13 subject employee's wages until paid or until an action is commenced, but the penalty cannot
14 exceed 30 days' wages. Labor Code § 203.

15 35. California Labor Code section 256 states that a civil penalty shall be imposed "in
16 an amount not exceeding 30 days' pay as waiting time under the terms of Section 203."

17 36. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
18 of civil penalties for violations of the labor code, to be recovered through a civil action brought
19 by an aggrieved employee on behalf of himself or herself and other current or former
20 employees pursuant to the procedures specified in Section 2699.3.

21 37. As set forth herein, during the PAGA Period, Defendants failed to timely pay all
22 final wages and penalties owed to Plaintiff and other aggrieved employees within the timelines
23 required by Cal. Labor Code sections 201-202. Defendants further failed to pay all waiting time
24 penalties as required by Labor Code section 203.

25 38. As a result, Defendants willfully violated the Labor Code and are liable to
26 Plaintiff, and other aggrieved employees, for civil penalties as required by Labor Code sections
27 256 and 2699(a) or, in the alternative, section 2699(f)(2), and recoverable in an amount
28 according to proof.

39. Plaintiff, as a representative of the general public, will and does seek to recover
any and all penalties for each and every violation, in an amount according to proof, as to those

1 penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance
2 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
3 of California.

4 **VI.**

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, on behalf of himself and all other aggrieved employees and as
7 a Representative of the Labor and Workforce Development Agency, prays for judgment as
8 follows:

9 a. For maintenance of this claim as a Representative Action under the PAGA, and
10 providing Plaintiff and his counsel with all enforcement capability as if this action has been
11 instituted by the Department of Labor Standards enforcement ("DLSE");

12 b. For recovery of civil penalties as permitted by Labor Code sections 2699.3 and
13 558(a)(1)-(2), in an amount according to proof;

14 c. For recovery of civil penalties as permitted by Labor Code section 226.3, for
15 failing to provide accurate itemized wage statements, in an amount to be assessed and according
16 to proof;

17 d. For recovery of civil penalties as permitted by Labor Code section 256 for
18 failing to provide wages timely to terminated employees upon separation of employment;

19 e. For recovery of civil penalties pursuant to Labor Code section 2699(f)(2), to the
20 extent that Section 2699(a) does not apply and/or where a statutory civil penalty is not provided,
21 for failing to comply with Labor Code sections 201-203, 226, and 510.

22 f. For Pre-Judgment and Post-Judgment interest, to the extent permitted by law as
23 to any restitution recovery;

24 g. For Attorneys' fees and costs of suit, including expert fees and fees pursuant to
25 California Labor Code sections 218.5, 226(e), the PAGA, and Code of Civil Procedure section
26 1021.5 on a public benefit theory; and all other applicable state laws;

27 h. For injunctive relief; and

28 ///

1 i. Such other legal equitable relief as this Court deems necessary, just, equitable
2 and proper.

3 COHELAN KHOURY & SINGER

4
5 Dated: September 13, 2021

6 By:  _____

Michael J. Singer, Esq.

J. Jason Hill, Esq.

Rosemary C. Khoury, Esq.

8 Counsel for Plaintiff CHRISTOPHER VALENCIA on
9 behalf of himself and other aggrieved employees

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