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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

IRAIDA APODACA, an individual and on
behalf of other similarly situated individuals
and the State of California,

Plaintiff,

vs.

VOLT MANAGEMENT CORP., a
Delaware corporation; and **DOES 1-50**,

Defendants.

Unlimited Jurisdiction

Case No.: **21GDCV01060**

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

1 Plaintiff Iraida Apodaca (“Plaintiff”), on behalf of herself and all other similarly
2 aggrieved employees and the State of California, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff, as a proxy for the State of California, brings a representative law
5 enforcement action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code
6 Section 2698 et seq., to recover civil penalties against Volt Management Corp. (“Defendant” or
7 “Volt”). On behalf of herself and other aggrieved employees, Plaintiff seeks to recover civil
8 penalties (75% payable to the Labor Workforce Development Agency and 25% payable to
9 aggrieved employees) owed by Defendants under Labor Code Section 2699 for failure to pay all
10 minimum wages, failure to provide accurate wage statements, and failure to timely pay all wages
11 upon cessation of employment.

12 **JURISDICTION AND VENUE**

13 2. Venue is proper in the County of Los Angeles because work was performed by
14 aggrieved employees for Defendants in the County of Los Angeles and the legal obligations of
15 Defendants to Plaintiff and other aggrieved employees were breached throughout California,
16 including in Los Angeles County.

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

21 **THE PARTIES**

22 **A. Plaintiff**

23 4. Plaintiff is over the age of eighteen, and at times mentioned in this complaint, was
24 a resident of California. During the one-year period preceding the notification of her claims under
25 PAGA to Defendants and Labor Workforce and Development Agency (the “LWDA”), Plaintiff
26 was employed by Defendant Volt Management Corp in California as an hourly paid non-exempt
27 employee from approximately August 2020, through January 8, 2021.

1 5. Plaintiff seeks to represent similarly situated persons who are Aggrieved
2 Employees. Aggrieved Employees are persons who, at any time since the date one year before the
3 date of Plaintiff's letter notifying Defendants and the LWDA of the alleged violations, were
4 required to submit to drug testing after being offered employment and did not receive
5 compensation for the time spent participating in the drug testing process.

6 6. As such, Plaintiff appears in this action on behalf of herself and on behalf of all
7 others similarly situated and the State of California.

8 **B. Defendants**

9 7. Plaintiff is informed and believes, and thereon alleges, that Defendant Volt
10 Management Corp. is a Delaware corporation that does business in California, including in Los
11 Angeles County, California. Volt is an international provider of staffing services, outsourcing
12 solutions and information technology infrastructure services. At all times relevant to this action,
13 Volt has been in the business of contracting with clients to supply temporary workers throughout
14 California.

15 8. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
16 participation in the conduct herein alleged, of the Defendants sued herein as DOES, but is informed
17 and believes and thereon alleges that said Defendants are legally responsible for the wrongful
18 conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will
19 amend this complaint to allege the true names and capacities of the DOE Defendants when
20 ascertained.

21 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
22 all respects pertinent to this action as the agent of one or more of the other Defendants, carried out
23 a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
24 Defendant are legally attributable to one or more of the other Defendants.

25 **FACTS RELEVANT TO PLAINTIFF'S CLAIMS**

26 10. At all times during the liability period, Defendant Volt Management Corp.
27 employed Plaintiff and other similarly situated individuals as hourly paid non-exempt employees.

1 Volt, as part of its staffing services, supplies temporary workers, such as Plaintiff and other
2 similarly aggrieved employees, to clients throughout California.

3 11. At all relevant times, Volt employed Plaintiff and other similarly aggrieved
4 employees subject to Labor Code Sections 1194, 1197 and the applicable Industrial Welfare
5 Commission (“IWC”) Wage Orders, including Wage Order 1. Under Labor Code Sections 1194
6 and 1197 and the applicable Wage Orders, Plaintiff and other similarly aggrieved employees were
7 entitled to receive minimum wages for all hours worked. Specifically, Volt failed to pay Plaintiff
8 and other similarly aggrieved employees for time spent attending mandatory drug testing in
9 violation of Labor Code Sections 1194 and 1197 and the applicable Wage Orders, including Wage
10 Order 1.

11 12. During the one-year period before Plaintiff notified Defendants and the LWDA of
12 her claims, Plaintiff and other similarly aggrieved employees were subjected to mandatory drug
13 testing for which they did not receive compensation for the time spent participating in the drug
14 testing process. Plaintiff and other similarly aggrieved employees filled out a job application
15 online. Shortly after, Plaintiff received a phone call from Volt’s Human Resources Department
16 with a job offer. Plaintiff accepted the offer. During that same phone call, Plaintiff was told that
17 she was required to complete a drug test and was given directions to a specific clinic located in
18 Bakersfield, California. Volt’s Human Resources Department also gave Plaintiff the exact date
19 and time of her drug testing appointment. Plaintiff appeared for her drug testing appointment as
20 directed by Volt. However, Plaintiff and others were not paid minimum wages for the time they
21 were suffered or permitted to work for Volt while at drug testing sites.

22 13. Wage Order No. 1 requires an employer to pay employees the applicable minimum
23 wage for all “hours worked”. Cal. Code Regs. tit.8 § 11010, Subd. 4(B). “‘Hours worked’
24 means...the time the employee is suffered or permitted to work, whether or not required to do so.”
25 The “time the employee is suffered or permitted to work, whether or not required to do so” is an
26 independent factor, which defines whether certain time spent is compensable as “hours worked.”
27 *Morillion v. Royal Packaging Co.* (2000) 22 Cal.4th 575, 579. In *Dynamex Operations W. v.*

1 *Superior Court* (2018) 4 Cal.5th 903, the Supreme Court noted that “...the suffer or permit to work
2 standard *must be interpreted and applied broadly* . . .” (Emphasis added).

3 14. In an opinion letter cited in *Morillion*, when addressing what constitutes work, the
4 Department of Labor Standards and Enforcement (“DLSE”) explained that employers must
5 compensate employees “for all time the employee spends, either directly or indirectly, performing
6 services which inure to the benefit of the employer.” DLSE Opinion Letter 1994.02.03-3, at p. 3,
7 cited at *Morillion*, 22 Cal.4th at 584. As the DLSE further explained, “in the event the activities
8 are undertaken by the employee ‘only because they were compelled to do so by the necessities of
9 the employer’s business,’ the time is compensable.” DLSE Opinion Letter 1994.02.03-3, at p. 4.
10 Likewise, when considering if an activity constitutes “hours worked,” courts also consider
11 “whether an employee’s activity primarily benefits the employer.” *Frlekin v. Apple, Inc.* (2020) 8
12 Cal.5th 1038, 1052.

13 15. After accepting the job offer and as part of Volt’s business necessities, Plaintiff and
14 all other similarly aggrieved employees were compelled to undergo drug testing. Plaintiff was
15 informed that the drug testing was mandatory and then told where to go, the time and date. She
16 was compelled to do so as a job requirement. This was also purely for the benefit of Volt as Volt
17 has an interest in providing a large enough workforce to fulfill its clients’ needs throughout
18 California, including in Los Angeles County. To be clear, the time Plaintiff and other similarly
19 aggrieved employees spent at drug testing sites were “hours worked” and are compensable. Volt
20 did not compensate Plaintiff and other similarly aggrieved employees for this time they were
21 suffered or permitted to work, thereby violating California minimum wage laws.

22 16. Labor Code Section 226(a) requires employers to list on an employee’s wage
23 statement, inter alia, “(1) Gross wages earned...” and “(2) total hours worked by an employee...”

24 17. During the one-year period before Plaintiff notified Defendants and the LWDA of
25 her claims, Plaintiff and other similarly aggrieved employees did not receive a wage statement that
26 complied with Labor Code Section 226(a) for the pay period in which they performed work
27 undergoing mandatory drug testing for which they were not paid for the time spent participating
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1 in the drug testing, or they received an inaccurate wage statement that did not reflect all of the time
2 worked.

3 18. Labor Code Section 201.3 applies to “Temporary services employers” which is
4 defined generally as any employer that contracts with clients or customers to supply workers to
5 serve these clients or customers. Volt is a temporary service employer as defined by Section
6 201.3(a)(1) as it contracted with clients, such as Ikea, to supply temporary workers such as
7 Plaintiff.

8 19. Labor Code Section 201.3(b)(1)(A) provides:

9 “Except as provided in paragraphs (2) to (5), inclusive, if an employee of a
10 temporary services employer is assigned to work for a client, that **employee’s**
11 **wages are due and payable no less frequently than weekly**, regardless of when
12 the assignment ends, and wages for work performed during any calendar week **shall**
13 **be due and payable not later than the regular payday of the following calendar**
14 **week.**” (Emphasis added.)

15 20. As explained above, Volt did not pay Plaintiff all minimum wages owed to Plaintiff
16 and other similarly aggrieved employees. In violation of Section 201.3, Volt did not pay the wages
17 owed to Plaintiff on the regular payday of the following calendar week, and still has not paid
18 Plaintiff the wages it owes her. Accordingly, Volt failed to comply with the requirements of
19 Section 201.3.

20 21. Section 201.3(b)(4) and (b)(5) further provide:

21 “(4) If an employee of a temporary services employer is assigned to work for a
22 client and is discharged by the temporary services employer or leasing employer,
23 wages are due and payable as provided in Section 201”; and

24 “(5) If an employee of a temporary services employer is assigned to work for a
25 client and quits his or her employment with the temporary services employer, wages
26 are due and payable as provided in Section 202.”

27 22. During the one-year period before Plaintiff notified Defendants and the LWDA of
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1 her claims, Plaintiff and other similarly situated aggrieved employees have been temporarily or
2 permanently discharged by Defendants or have resigned their employment.

3 23. Accordingly, pursuant to Section 201.3, Section 201 applies to Plaintiff's
4 termination as well as to all other persons who similarly were required to undergo drug testing and
5 were not compensated for the time spent participating in the drug testing process and whose
6 employment was involuntarily terminated by Volt. Likewise, Section 202 applies to all other
7 persons who were required to undergo drug testing and were not compensated for the time spent
8 participating in the drug testing process who subsequently voluntarily resigned their employment.

9 24. Pursuant to 201.3(c) and 203, Plaintiff and other similarly aggrieved individuals
10 who were not paid the minimum wages owed to them for having spent time participating in
11 mandatory drug testing at the time of their termination in compliance with Sections 201 and 202,
12 were and are owed waiting time penalties pursuant to Section 203.

13 25. As a result of these violations, Plaintiff seeks on behalf of herself and all other
14 similarly aggrieved employees, penalties under PAGA.

15 **FIRST CAUSE OF ACTION**

16 **CIVIL PENALTIES UNDER PAGA**

17 **(By Plaintiff, Aggrieved Employees and the State of California against Defendants)**

18 26. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
19 though set forth herein.

20 27. At all times relevant to this action, Plaintiff and other Aggrieved Employees were
21 "aggrieved employees" within the meaning of Labor Code Section 2699.

22 28. Defendants' conduct as described herein, arising from Defendants' requirement
23 that, upon hiring, Plaintiff and other Aggrieved Employees participate in mandatory drug testing
24 for which they did not receive compensation, constitute violations of Labor Code Sections 201,
25 201.3, 202, 203, 226, 1194, 1197 and the relevant Sections of the applicable Wage Orders of the
26 Industrial Welfare Commission, including Wage Order 1.

27 29. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf
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1 of herself and other current or former employees, to bring a civil action to recover civil penalties
2 pursuant to the procedures specified in Labor Code Section 2699.3.

3 30. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
4 Section 2699.3. By letter dated June 15, 2021, Plaintiff gave written notice to the Labor and
5 Workforce Development Agency (“LWDA”) via its online filing system and by certified mail to
6 Defendant Volt Management Corp. of the specific provisions of the Labor Code alleged to have
7 been violated, including the facts and theories to support the alleged violations. A true and correct
8 copy of the June 15, 2021, letter is attached hereto as **Exhibit 1**. To date, more than 65 days after
9 the postmark date of June 15, 2021, the LWDA has not advised Plaintiff that it intends to
10 investigate Plaintiff’s allegations.

11 31. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff and other Aggrieved
12 Employees are entitled to civil penalties for Defendants’ violations of the Labor Code and the
13 applicable Wage Orders of the Industrial Welfare Commission, including Wage Order 1, in the
14 amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
15 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
16 subsequent violation. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties recovered
17 shall be distributed to the LWDA, and 25% shall be distributed to the aggrieved employees.

18 32. Pursuant to Labor Code Section 2699(g), Plaintiff is entitled to an award of
19 reasonable attorney’s fees and costs in connection with her claims for civil penalties.

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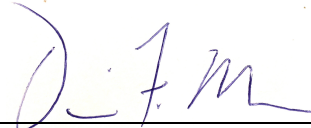
1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff on behalf of herself and all others similarly situated, prays for
3 relief and judgment against Defendants as follows:

- 4 1. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and
5 25% payable to aggrieved employees);
6 2. Costs;
7 3. Reasonable attorney's fees; and
8 4. Such other and further relief as this Court may deem just and proper.

9 Dated: August 18, 2021

MOSS BOLLINGER, LLP

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11 By: 

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13 Jeremy F. Bollinger
14 Ari E. Moss
15 Jorge A. Flores
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