

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: David Sotelo

Electronically FILED by Superior Court of California, County of Los Angeles on 10/20/2021 11:24 AM Sherri R. Carter, Executive Officer/Clerk of Court, by H. Flores-Hernandez, Deputy Clerk

Kevin Mahoney (SNB:235367)
kmahoney@mahoney-law.net
MAHONEY LAW GROUP, APC.
 249 E. Ocean Boulevard, Suite 814
 Long Beach, CA90802
 Telephone: (562) 590-5550
 Facsimile: (562) 590-8400

Amir Seyedfarshi (SBN:301656)
amir@employmentrightslawgroup.com
EMPLOYMENT RIGHTS LAW GROUP, APC.
 1180 South Beverly Drive, Suite 610
 Los Angeles, CA 90035
 Telephone: (424) 777 - 0964

Attorneys for Plaintiff DENISE DEJESUS, as a representative of the State of California and the Labor and Workforce Development Agency, and on behalf of herself and other current and former employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT
STANLEY MOSK COURTHOUSE

DENISE DEJESUS, individually and on
 behalf of all others similarly situated,

Plaintiff,

v.

365 N LA CIENEGA BEVERLY HILLS,
 and DOES 1 to 100, inclusive,

Defendants.

Case No.: **21STCV38671**

**REPRESENTATIVE ACTION
 COMPLAINT**

1. Penalties Pursuant to Labor Code § 2699,
et seq. for violations of Labor Code §§
 226 and 203;

1 Plaintiff DENISE DEJESUS, (“Plaintiff”), on behalf of the people of the State of
2 California and as an “Aggrieved Employee” acting as a private attorney general under the
3 California Labor Code Private Attorneys General Act of 2004, § 2698, *et seq.*, (“PAGA”)
4 complains of Defendant 365 N LA CIENEGA BEVERLY HILLS, LLC (“Defendant”) as follows:

5 **OVERVIEW OF CLAIMS**

6 1. Plaintiff brings this action on behalf of herself and as a representative action, and on
7 behalf of the California general public, against Defendant 365 N LA CIENEGA BEVERLY
8 HILLS, LLC (“Defendant”) and Does 1 to 100 (collectively, “Defendants”) for PAGA penalties
9 based on Defendant’s failure to issue a compliant and accurate paystub to its current and former
10 non-exempt employees in violation of Labor Code 226 and 203. As a result of the foregoing,
11 Defendants have violated California statutory laws as described below.

12 2. The “PAGA Period” is designated as the period from one year prior to Plaintiff’s
13 mailing of the LWDA notice letter (*i.e.*, July 29, 2020) through the present.

14 **VENUE**

15 3. Venue is proper in this county under section 395.5 of the California Code of Civil
16 Procedure as Defendant is located in the County of Los Angeles. Further, 365 N LA CIENEGA
17 BEVERLY HILLS, LLC’s headquarters is in the city of Los Angeles, California. Venue is
18 therefore proper in Los Angeles County.

19 **JURISDICTION**

20 4. Defendant is within the jurisdiction of this Court. Defendant operates numerous
21 strip tease clubs throughout the Los Angeles area. Thus, Defendant has obtained the benefits of the
22 laws of the State of California. In addition, Plaintiff asserts no claims arising under federal law.
23 Rather, Plaintiff brings causes of action based solely on, and arising from, California law.

24 **THE PARTIES**

25 5. Plaintiff DENISE DEJESUS resides in Los Angeles, California in Los Angeles
26 County of California. 365 N LA CIENEGA BEVERLY HILLS, LLC employed Plaintiff as a non-
27 exempt employee. From at least July 29, 2020 through the present, 365 N LA CIENEGA
28 BEVERLY HILLS, LLC’s non-exempt employees, including Plaintiff during her employment,

1 were not issued correct paystubs corresponding to the total number of hours that they worked.

2 6. Plaintiff represents the State of California and the following group of employees:
3 *Plaintiff and all other California residents who are or were employed by Defendant as non-exempt*
4 *employees and who worked at least one shift in California from July 29, 202, to the present* (the
5 “Aggrieved Employees”). All such Aggrieved Employees are and were subject to Defendant’s
6 unlawful paystubs policies, as described in further detail below.

7 7. Defendant 365 N LA CIENEGA BEVERLY HILLS LLC is a California Limited
8 Liability Corporation that keeps and maintains its headquarters in Los Angeles, California.
9 Defendant operates several strip clubs throughout California.

10 8. The true names and capacities, whether individual, corporate, associate, or
11 otherwise, of Defendant sued herein as DOES 1 to 100 inclusive, are currently unknown to
12 Plaintiff, who therefore sues Defendant by such fictitious names under Code of Civil Procedure §
13 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
14 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to
15 herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
16 capacities of the Defendants designated hereinafter as DOES when such identities become known.

17 9. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
18 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
19 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
20 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
21 employer and/or joint employer of Plaintiff, and the other Aggrieved Employees. Further, Labor
22 Code § 558.1 explicitly allows Plaintiff to name any owner, director, officer, or managing agent of
23 365 N LA CIENEGA BEVERLY HILLS, LLC as a Doe Defendant for violations of Labor Code §
24 226.

25 **FACTUAL ALLEGATIONS**

26 10. Defendant operates and, at all times during the PAGA Period, has done and does
27 business in California by operating several strip tease clubs throughout California. Defendant, in
28 the course of operating their business in California during the PAGA Period, employed Plaintiff

1 and the Aggrieved Employees.

2 11. Since at least July 29, 2020, Plaintiff and the Aggrieved Employees have received
3 paystubs from Defendant on a weekly basis.

4 12. Defendant's paystubs to Plaintiff and other Aggrieved Employees show that they
5 received a net amount much lower than the amount shown on their paystub. Often, Plaintiff and
6 the Aggrieved Employees received a commission reported on their wage statements, however,
7 Plaintiff and the Aggrieved Employees did not receive the correct amount corresponding to the
8 amount reported as commissions. Furthermore, there is no other document attached to the paystub
9 explaining the commission and the meaning of the commission in this matter. Because Defendants
10 failed to provide Plaintiff and all Aggrieved Employees with accurate itemized wage statements in
11 compliance with Labor Code section 226 subdivision (a), they may seek penalties under Labor
12 Code section 226.3. Moreover, Plaintiff and the Aggrieved Employees did not receive all their
13 wages upon their termination based on Labor Code section 203.

14 13. Defendant issued wage statements to Plaintiff and the Aggrieved Employees which
15 did not include the correct amount of the pay and all hours worked in violation of Labor Code
16 section 226, subdivision (a)(6) and (8) (see **Exhibit A**). Furthermore, Defendant cannot argue that
17 separate, detachable documents, apart from the wage statements, were available to Plaintiff and
18 Aggrieved Employees that contained the required information. (*See Noori v. Countrywide Payroll*
19 *& HR Solutions, Inc.*, 2019 Cal.App.LEXIS 1299 (3rd District Court of Appeal, December 26,
20 2019), which noted: "... This conclusion [that section 226(a)(8) was violated] is not altered by the
21 fact that the full name [of the employer] appears on the checks. Indeed, in its appellate brief,
22 Countrywide notes that "Countrywide Staffing Solutions Group" appears on checks attached to
23 wage statements, arguing that even if the statute requires a "complete" name, "the checks
24 physically attached to the wage statements, and *thus part of them*, stated the 'complete name' and
25 thus complied." (Italics added.) But Countrywide's argument is based on an erroneous premise.
26 The paycheck is not "part of" the wage statement. Section 226, subdivision (a) directs employers
27 to furnish "*as a detachable part of the check ... an accurate itemized statement in writing showing*
28 [*the statutorily required information*]." (§ 226, subdivision (a) italics and emphasis added). Thus,

1 The employer's address cannot appear on the detachable paycheck itself – or any other detachable
2 document -- in lieu of its appearing on the wage statement; it must appear on the wage statement
3 itself which, here, it did not. Federal courts in California are in agreement with the logic of *Noori*.
4 (*See e.g., Willner v. Manpower Inc.* (N.D. Cal. 2014) 35 F.Supp.3d 1116, 1129 (rejecting the
5 employer's argument that its address appearing on a detachable check attached to wage statements
6 satisfied the statute).

7 14. Further, Plaintiff as an Aggrieved Employee, need not demonstrate or prove that
8 Defendants conduct in refusing to provide accurate and itemized wage statements was knowing,
9 intentional, or willful. (*Lopez v. Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788, 224 (“Consistent
10 with the PAGA statutory framework and the plain language and legislative history of section
11 226(e), we hold a plaintiff seeking civil penalties under PAGA for a violation of section 226(a)
12 does not have to satisfy the “injury” and “knowing and intentional” requirements of section
13 226(e)(1).”); *see Willner v. Manpower Inc.* 35 F.Supp.3d 1116, 1136 (N.D. Cal. 2014) (To obtain
14 judgment on a PAGA claim, “all [plaintiff] needs to establish is a violation of section 226(a),
15 which she has done, as discussed above.”)

16 15. Plaintiff and the Aggrieved Employees have been harmed by Defendant's unlawful
17 wage statements in that they have not been paid for all hours worked and they received an
18 erroneous paystub while employed by Defendant in California, thereby diminishing their agreed-
19 upon compensation, in substantial amounts to be proven at trial.

20 16. Plaintiff has fully and completely exhausted and/or will have fully and completed
21 and exhausted her administrative remedies under PAGA in order to proceed with the PAGA claim.
22 On July 29, 2021, Plaintiff filed her PAGA Notice online with the Labor Workforce Development
23 Agency (“LWDA”) and sent a letter by certified mail to Defendant setting forth the facts and
24 theories of the violations alleged against Defendant, as prescribed by Labor Code § 2698 *et seq.* As
25 required by PAGA, Plaintiff submitted the seventy-five dollars (\$75.00) filing fee with the LWDA
26 by regular mail. Pursuant to Labor Code section 2699.3, subdivision(a)(2)(A), as of the end of
27 October 2, 2021, Plaintiff satisfied her administrative pre-requisites after sixty-five (65) calendar
28 days had elapsed following the postmark date of the PAGA notice.(See **Exhibit B**)

1 **FIRST CAUSE OF ACTION**

2 **Labor Code Private Attorney General Act**

3 **Cal. Labor Code §§ 2698-2699.5 Based on Violation of Section 226 and 203**

4 **(On Behalf of Plaintiff and the Aggrieved Employees Against All Defendants)**

5 17. Plaintiff, on behalf of herself and all Aggrieved Employees, realleges and
6 incorporates by reference each and every allegation set forth in the preceding paragraphs.

7 18. Based on the above allegations incorporated by reference, Defendant has violated
8 Labor Code section 226 by failing to issue to Plaintiff and the Aggrieved Employees a correct
9 paystub.

10 19. Based on the above allegations incorporated by reference, Defendant has violated
11 Labor Code section 226 by failing to state the correct amount of pay for all hours worked by
12 Plaintiff and the Aggrieved Employees' paystubs during the PAGA period.

13 20. Based on the above allegations incorporated by reference, Defendant has violated
14 Labor Code section 203 by failing to pay Plaintiff and the Aggrieved Employees' the entire wages
15 owed to them upon their termination.

16 21. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
17 section 2699, et. seq., because of Defendant's violations of Labor Code sections 226 and 203.

18 22. Plaintiff seeks to recover the PAGA civil penalties through a representative action
19 as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009), 46
20 Cal.4th 969. Therefore, class certification hereby of the PAGA claims is not required, but Plaintiff
21 may choose to seek certification of the PAGA claims.

22 23. Under Labor Code section 2699, subdivision (f)(2) and 2699.5, for each such
23 violation, Plaintiff and all other Aggrieved Employees are entitled to penalties in an amount to be
24 shown at the time of trial subject to the following formula:

25 \$100.00 for the initial violation per employee per pay period; and

26 \$200.00 for each subsequent violation per employee per pay period.

27 24. These penalties, if and when recovered, shall be allocated seventy-five percent
28 (75%) to the Labor and Workforce Development Agency (LWDA) and twenty-five percent (25%)
to the affected employees. (See Labor Code § 2699(i) and (j).)

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff, on behalf of herself and the aggrieved employees, pray for
3 judgment against Defendant as follows:

- 4 1. A civil penalty against Defendant, in the amount of \$100 for the initial violation and
5 \$200 for each subsequent violation as specified in section 2699(f)(2) of the California
6 Labor Code for Plaintiff and the Aggrieved Employees during all of the pay periods
7 from July 29, 2020 through date of trial;
- 8 2. An award of reasonable attorney's fees against Defendant as specified in Labor Code §
9 2699(g)(1), for all the work performed by the undersigned counsel in connection with
10 the PAGA claims;
- 11 3. An award of all costs incurred by the undersigned counsel for Plaintiff in connection
12 with Plaintiff's and the aggrieved employees' PAGA claim against Defendant, as
13 provided for in Labor Code § 2699(g)(1); and
- 14 4. All other relief as this Court deems proper.
- 15

16 Dated: October 20, 2021

MAHONEY LAW GROUP, APC

17
18
19 

20 Kevin Mahoney, Esq.
21 Attorney for Plaintiff DENISE DEJESUS on behalf
22 of similarly situated employees
23
24
25
26
27
28

EXHIBIT A

Company Code KA/FL924511885 Loc/Dept 017 Number Page 618881871 of 1
365 N La Cienega Beverly Hills LLC
365 N La Cienega Blvd
Los Angeles, CA 90048

Earnings Statement



Period Starting: 05/04/2021
Period Ending: 05/10/2021
Pay Date: 05/17/2021

Taxable Filing Status: Single
Exemptions/Allowances:

Federal: Std W/H Table
State: 2
Local: 0

Tax Override:

Federal:
State:
Local:

Social Security Number: XXX-XX-0876



Earnings	rate	hours/units	this period	year to date
Regular	15.0000	4.17	62.55	477.15
Commissions		0.00	25.00	335.00
Gross Pay			\$87.55	\$812.15

Other Benefits and Information	this period	year to date
Total Hours Worked	4.17	31.81

Statutory Deductions	this period	year to date
Federal Income	0.00	0.00
Social Security	-5.42	50.35
Medicare	-1.27	11.78
California State Income	0.00	0.00
California State DI	-1.05	9.75
Net Pay	\$54.81	

Important Notes

Basis of pay: Hourly

Your federal taxable wages this period are \$87.55

365 N La Cienega Beverly Hills LLC
365 N La Cienega Blvd
Los Angeles, CA 90048

90-477/1222

Payroll Check Number: 61888187
Pay Date: 05/17/2021

Pay to the
order of:
This amount:

Denise Dejesus

FIFTY FOUR AND 81/100

\$54.81

THIS IS NOT A CHECK
VOID - NON NEGOTIABLE VOID - NON NEGOTIABLE

Wells Fargo Bank,
N.A.
5401 California Avenue
Bakersfield, CA 93309



Company Code KA/FL924511885 Loc/Dept 017 Number Page 618414731 of 1
365 N La Cienega Beverly Hills LLC
365 N La Cienega Blvd
Los Angeles, CA 90048

Earnings Statement



Period Starting: 04/20/2021
Period Ending: 04/26/2021
Pay Date: 04/30/2021

Taxable Filing Status: Single
Exemptions/Allowances:

Federal: Std W/H Table
State: 2
Local: 0

Tax Override:

Federal:
State:
Local:

Social Security Number: XXX-XX-0876



Earnings	rate	hours/units	this period	year to date
Regular	15.0000	5.50	82.50	251.10
Commissions			0.00	170.00
Gross Pay			\$82.50	\$421.10

Other Benefits and Information	this period	year to date
Total Hours Worked	5.50	16.74

Statutory Deductions	this period	year to date
Federal Income	0.00	0.00
Social Security	-5.12	26.11
Medicare	-1.20	6.11
California State Income	0.00	0.00
California State DI	-0.99	5.05
Net Pay		\$75.19

Your federal taxable wages this period are \$82.50

365 N La Cienega Beverly Hills LLC
365 N La Cienega Blvd
Los Angeles, CA 90048

90-477/1222

Payroll Check Number: 61841473
Pay Date: 04/30/2021

Pay to the
order of:
This amount:

Denise Dejesus

SEVENTY FIVE AND 19/100

\$75.19

THIS IS NOT A CHECK
VOID - NON NEGOTIABLE VOID - NON NEGOTIABLE

Wells Fargo Bank,
N.A.
5401 California Avenue
Bakersfield, CA 93309



Company Code KA/FL924511885 Loc/Dept 017 Number 56609 Page 1 of 1
365 N La Cienega Beverly Hills LLC
365 N La Cienega Blvd
Los Angeles, CA 90048

Earnings Statement



Period Starting: 04/23/2021
Period Ending: 04/24/2021
Pay Date: 04/30/2021

Taxable Filing Status: Single
Exemptions/Allowances:

Federal: Std W/H Table
State: 2
Local: 0

Tax Override:

Federal: 0.00 Flat
State: 0.00 Flat
Local:

Social Security Number: XXX-XX-0876



Earnings	rate	hours/units	this period	year to date
Regular	15.0000	5.42	81.30	81.30
Commissions		0.00	145.00	145.00
Gross Pay			\$226.30	\$421.10

Other Benefits and Information	this period	year to date
Total Hours Worked	5.42	16.74

Statutory Deductions	this period	year to date
Federal Income	0.00	0.00
Social Security	-14.03	14.03
Medicare	-3.28	3.28
California State Income	0.00	0.00
California State DI	-2.72	2.72
Net Pay		\$61.27

Your federal taxable wages this period are \$226.30

365 N La Cienega Beverly Hills LLC
365 N La Cienega Blvd
Los Angeles, CA 90048

11-35/1210

Payroll Check Number: 56609
Pay Date: 04/30/2021

Pay to the
order of:
This amount:

Denise Dejesus

SIXTY ONE AND 27/100

\$61.27

THIS IS NOT A CHECK
VOID - NON NEGOTIABLE VOID - NON NEGOTIABLE

Bank of America



EXHIBIT B



EMPLOYMENT RIGHTS LAW GROUP, APC
AMIR SEYEDFARSHI, ESQ.
1180 S BEVERLY DR., SUITE 610
LOS ANGELES, CALIFORNIA 90035
AMIR@EMPLOYMENTRIGHTSLAWGROUP.COM
424-777-0964

July 29, 2021

Via Online Filing with the LWDA & Certified Mail to Defendants

365 N La Cienega Beverly Hills, LLC
C/O Ronald McKinney, Agent for Service of Process
15619 Valley Blvd
City of Industry, CA 91744

Re: NOTICE OF INTENT TO FILE SUIT (Labor Code § 2699.3)
Denise Dejesus v. 365 N La Cienega Beverly Hills, LLC

Dear Gentilepersons:

This letter is the written notice required by the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), California Labor Code Section 2698 *et seq.*, including without limitation California Labor Code Sections 2699.33 (a)(1), 2699.3(b)(1), and/or 2699.3(c)(1), and any other applicable provision of statute, rule, or law. This letter is being sent simultaneously via online filing to the California Labor and Workforce Development Agency. This letter is an important formal legal notice which may lead to action against you and your company in a court of law and in administrative proceedings, or both, and to the imposition of substantial penalties and other order and remedies against you and your company.

This office, along with our co-counsel, Kevin Mahoney from Mahoney Law Group, APC, represents Plaintiff Denise Dejesus (“Plaintiff”) and a proposed group (and subgroups) of current and former Aggrieved Employees of 365 N La Cienega Beverly Hills, LLC, a California Limited Liability corporation, or any 365 N La Cienega Beverly Hills, LLC and its co-employers, successors in interest, and/or merged entities (“Defendants”) in connection with her individual and PAGA representative action claims for back pay, premiums, reimbursement and/or civil penalties, based on, without limitation, Defendants’:

(1) failure to provide accurate itemized wage statements in violation of Labor Code § 226

based upon the absence of all hours worked, the beginning date of the pay period, and the accurate rate of pay; and

- (2) statutory penalties under California's Private Attorney General Act ("PAGA") based upon the foregoing under Labor Code sections 2698 et seq.

In connection with his PAGA claims, Plaintiff seeks PAGA penalties from at least one year prior to the date of this Notice and ongoing (the "PAGA Period"). Plaintiff seeks to represent the following groups of aggrieved employees:

a. The "Aggrieved Employees":

All non-exempt hourly-paid individuals who are or were California residents for state tax purposes, who are or were employed by Defendants in the State of California, and who worked one or more shifts of (3.5) hours or longer during the PAGA Period from one year prior to the date of this letter through the present.

i. The "Wage Statement Aggrieved Employees":

All Aggrieved Employees who were issued one or more wage statements from Defendants during the PAGA Period;

ii. The "Waiting Time Penalty Aggrieved Employees":

All Aggrieved Employees whose employment with Defendants terminated during the PAGA Period.

Defendants' Violation of Labor Code §§ 226(a) and 226.3

Based upon the facts stated above, Defendants also failed to provide accurate itemized wage statements in accordance with Labor Code § 226(a) (1, 2, 6, and 10). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the
- (4) employee is paid on a piece rate;
- (5) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (6) net wages earned;
- (7) the inclusive dates of the period for which the employee is paid;
- (8) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social

- security number;
- (9) the name and address of the legal entity that is the employer...;
 - (10) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Defendant's paystubs to Ms. Dejesus and other Aggrieved Employees show that they received a net amount much lower than the amount shown on their paystub, (See Exhibit A). Often, Plaintiff and the Aggrieved Employees received a commission reported on their wage statements, however, Plaintiff and the Aggrieved Employees did not receive the correct amount corresponding to the amount reported as commissions. Furthermore, there is no other document attached to the paystub explaining the commission and the meaning of the commission in this matter. Because Defendants failed to provide Ms. Dejesus and all Wage Statement Aggrieved Employees with accurate itemized wage statements in compliance with Labor Code § 226(a), they may seek penalties under Labor Code §226.3. Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226."

Further, Ms. Dejesus as a Wage Statement Aggrieved Employee, need not demonstrate or prove that Defendants conduct in refusing to provide accurate and itemized wage statements was knowing, intentional, or willful. *Lopez v. Friant & Assocs., LLC*, 15 Cal. App. 5th 773, 788, 224 Cal. Rptr. 3d 1, 11 (Ct. App. 2017), ("Consistent with the PAGA statutory framework and the plain language and legislative history of section 226(e), we hold a plaintiff seeking civil penalties under PAGA for a violation of section 226(a) does not have to satisfy the "injury" and "knowing and intentional" requirements of section 226(e)(1)."); see *Willner v. Manpower Inc.* 35 F. Supp. 3d 1116, 1136 (N.D. Cal. 2014) (To obtain judgment on a PAGA claim, "all [plaintiff] needs to establish is a violation of section 226(a), which she has done, as discussed above.").

Defendant's violation of Labor Code 203

As a result of Defendants failure to pay Ms. DeJesus and the Aggrieved Employees for all hours worked, including commissions earned, Defendants violated Labor Code §§ 201-203. Under Labor Code §§ 201-202, an employer must provide an employee wages at the time or discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . ." for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

Due to Defendants unlawful policies and practices, Ms. Thomas and the Waiting Time Aggrieved Employees, whose employment with the Defendants concluded, were not

compensated for all the commissions that they received. As a result, the Defendants failed to pay Ms. Dejesus and the Aggrieved Employees all wages for all hours worked, (including at the commissions obtained), at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter.

Lastly, because the failure to provide accurate wage statements to Ms. Dejesus and the Wage Statement Aggrieved Employees was caused by Defendants' restrictions on the number of hours each employee could report on their timecards, it is likely that Defendants have failed to keep accurate time records of Ms. Dejesus and the Aggrieved Employees. Cal. Labor Code § 1174(d) requires that all employers keep and maintain accurate time records of all non-exempt employees. The Defendants have not done so, and thus, are also subject to a civil penalty under Cal. Labor Code § 1174.5 of \$500 per violation.

CONCLUSION

Therefore, pursuant to Labor Code § 2699.3, we write to inform you and the Labor and Workforce Development Agency, with whom this PAGA Notice has been filed, of our intent to pursue a PAGA representative action (and a class action) against Defendants seeking, *inter alia*, PAGA penalties under Labor Code § 2699, to be brought by the Plaintiff individually, on a class basis, and on behalf of the Aggrieved Employees, as defined above.

Nevertheless, it is the policy of this firm to attempt to negotiate an early resolution of all matters where possible and beneficial to the aggrieved employees. If Defendants are interested in attempting to resolve this matter, including the PAGA claims, please have counsel contact us by **August 15, 2021**, so that we may discuss an informal discovery plan and the possibility of early mediation.

Very truly yours,



Amir Seyedfarshi

Cc: Mahoney Law Group
Kevin Mahoney, Esq.