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Attorneys for Plaintiff,
GORDON THOMAS individually, and on behalf of other aggrieved employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY

GORDON THOMAS, individually, and on behalf of other aggrieved employees,	CASE NO. 37-2021-00044661-CU-OE-CTL [Unlimited Civil Jurisdiction – Civil Complex]
Plaintiffs,	COMPLAINT FOR DAMAGES AND ENFORCEMENT UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE § 2698, ET SEQ.
vs.	1. Failure to Pay Minimum Wages (Cal. Lab. C. §§ 1182.12, 1194, 1194.2, 1197 and 1197.1);
POULIN VENTURES, LLC, a California Limited Liability Corporation; BRANDON POULIN, an individual; and DOES 1 through 100, inclusive,	2. Failure to Pay Overtime Wages (Cal. Lab. C. §§ 510, <i>et seq.</i>);
Defendants.	3. Failure to Timely Pay Wages Upon Termination (Cal. Lab. C. §§ 201-203);
	4. Failure to Provide Accurate Wage Statements (Cal. Lab. C. §§ 226, <i>et seq.</i>);
	5. Failure to Indemnify for Business Expenses (Cal. Lab. C. § 2802);
	6. Unfair Competition (Cal. Bus. & Prof. C. § 17200, <i>et seq.</i>);
	7. Retaliation (Cal. Lab. C. § 1102.5);
	8. Retaliation (Cal. Lab. C. § 98.6);
	9. Wrongful Termination in Violation of Public Policy; and
	10. Private Attorney General's Act (Cal. Lab. C. § 2698, <i>et seq.</i>
	<u>DEMAND FOR JURY TRIAL</u>

COMES NOW, Plaintiff GORDON THOMAS (hereinafter "Plaintiff"), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

THE PARTIES

1. At all times relevant hereto, Plaintiff GORDON THOMAS ("Plaintiff") was and is an individual residing in the City of San Diego, County of San Diego, State of California.

2. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, Defendant POULIN VENTURES, LLC ("Defendant POULIN VENTURES") was and is a California corporation doing business in the State of California and, specifically, the County of San Diego.

3. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, Defendants BRANDON POULIN and DOES 25 – 50 were and are members, managers, directors, principals, and/or managing agents of Defendant POULIN VENTURES and is liable to Plaintiff for the wage and hour causes of action asserted herein. Plaintiff is further informed and believes, and based thereon alleges, that at all times relevant hereto, Defendants BRANDON POULIN and DOES 25 – 50 were and are residing in the County of San Diego, State of California.

4. Plaintiff is unaware of the true names and capacities of Defendants named herein as DOES 1 through 100, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege such names and capacities when the same has been ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the fictitiously named Defendants stated herein bears a legal responsibility to Plaintiffs similar to that of the named Defendant herein.

5. At all times mentioned herein, Defendants DOES 1 through 100, inclusive, were the agents, servants, and employees of their Co-Defendants, and in doing the things herein alleged were acting in the scope of their authority as such agents, servants, and employees, and with the permission and consent of their Co-Defendants.

JURISDICTION & VENUE

6. At all times relevant hereto, Plaintiff was residing in the county of San Diego, State of California.

7. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, Defendants, and each of them, were residents of the County of San Diego, State of California.

8. This action is further brought pursuant to the California Private Attorneys General Act ("PAGA"), California *Labor Code* sections 2698, *et seq.* The penalties and other remedies sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. It is believed that the total sum owed to Plaintiff and other Aggrieved Employees ("Aggrieved Employees" is defined for all purposes herein as all current and/or former hourly paid or non-exempt employees of Defendant POULIN VENTURES) alleged herein is less than \$5,000,000.00, based upon the anticipated number of Aggrieved Employees and the amount in controversy for each member of the Aggrieved Employees.

9. This Court has jurisdiction over this action and the matters alleged herein pursuant to the grant of original jurisdiction set forth in Article VI, Section 10 of the California Constitution. The statutes under which this action is brought do not specify any other basis for jurisdiction.

10. Additionally, this Court has jurisdiction over Defendants because, upon information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by this Court consistent with traditional notions of fair play and substantial justice.

11. Venue is proper in this Court because the named Defendants reside, transact business, and/or have offices in this county, and/or the acts or omissions alleged herein took place in this county.

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GENERAL ALLEGATIONS

12. Plaintiff began his employment with Defendant POULIN VENTURES in or around May 2020. At all times relevant hereto, Plaintiff worked for Defendant as a “results liaison,” and his employment duties included, but are not limited to, the following: presenting, promoting, and selling products and services; “cold calling” potential customers; establishing and maintaining positive business relationships; meeting sales targets; and coordinating sales efforts with other team members and departments. At all times relevant hereto, Plaintiff performed each of his employment duties in a competent and satisfactory manner.

13. Defendant POULIN VENTURES owns, operates, manages, or otherwise controls a company called “LadyBoss.” LadyBoss’ mission is to “help women lose weight and live a healthy lifestyle.” LadyBoss operates as an “online support community,” and sells weight loss and exercise programs, private coaching sessions, vitamin supplements, and various health foods.

14. Plaintiff was hired by Defendant POULIN VENTURES as a “results liaison.” In this position, Plaintiff was primarily responsible for telemarketing and directing sales. When Plaintiff was hired, Defendant POULIN VENTURES provided him with a company laptop, on which he did most of his work; however, Defendant did not provide Plaintiff or other Aggrieved Employees with a company cell phone. Therefore, Plaintiff was required to use his own cell phone to communicate with coworkers and to make his sales calls, thus incurring wireless cell phone costs. Plaintiff worked from home for a majority of the time he worked for Defendant POULIN VENUTRES. Therefore, Plaintiff also incurred costs for his home Wi-Fi system, all of which were never reimbursed by Defendant.

15. At all times relevant hereto, Plaintiff worked 40 hours per week and earned \$13.00 per hour, plus commissions.

16. When Plaintiff was hired by POULIN VENTURES, Plaintiff was informed by his trainer, Amanda, that employees were required to perform four (4) hours of homework assignments per day to help them “hone their skills.” Accordingly, Plaintiff spent approximately four (4) hours per day doing the “homework,” which was in addition to his normal eight (8) hour workday. Plaintiff was never paid for the time he spent completing these “homework” assignments.

1 17. In or around May 2020, Plaintiff complained to supervisor Phuong Pha that he was
2 not being paid for the time he spent doing the “homework.” Plaintiff’s supervisor ignored his
3 request and, in violation of law, failed to investigate Plaintiff’s complaint of unlawful conduct.
4 Plaintiff made multiple subsequent complaints about the unpaid homework assignments, but
5 Defendant never did anything to address the issue.

6 18. In or around October 2020, in retaliation for consistently reporting Defendants’
7 violation of or noncompliance with various laws, including violations of or noncompliance with
8 multiple sections of the *Labor Code*, Plaintiff was terminated.

9 19. Following his termination, Plaintiff attempted to obtain benefits from California’s
10 Employment Development Department. In further retaliation for engaging in protected activity,
11 Defendant POULIN VENTURES interfered with Plaintiff’s ability to obtain state benefits by
12 informing the EDD that Plaintiff was terminated for his “insubordination.” This is purely pretext—
13 Plaintiff was never written up, orally advised, or otherwise disciplined for any workplace
14 “insubordination.”

15 20. Plaintiff’s health and career has been materially and adversely affected and
16 irreparably harmed and damaged by the conduct of the Defendants. Defendants, and each of them,
17 terminated Plaintiff following his protected activity.

18 21. As a direct and proximate consequence of exercising such rights—which constitutes
19 protected activity under state and federal law—Defendants, and each of them, subjected Plaintiff to
20 adverse employment actions. Those adverse employment actions include, but may not be limited to,
21 termination.

22 22. Plaintiff has suffered both general and special damages in the past and present and
23 will continue to suffer such damages in the future for an unknown period of time. Plaintiff has also
24 suffered and continues to suffer losses in earnings and other employment benefits, as well as past
25 and future non-economic injury. Moreover, Defendants’ unlawful conduct has adversely affected
26 Plaintiff’s personal health and well-being. Plaintiff has also suffered extensive general damages in
27 the form of anxiety, anguish, and mental suffering. Plaintiff’s damages are continuing and in an
28 amount not yet determined, but in excess of the jurisdictional minimum of this Court.

1 23. The conduct of Defendants, and each of them, was a violation of Plaintiff's rights, as
2 described above, as well as his rights under both state and federal law, including the California
3 *Labor Code* and the PAGA. Therefore, Defendants, and each of them, are liable under the *Labor*
4 *Code* and PAGA, as well as for retaliation in violation of public policy as identified in *Tameny v.*
5 *Atlantic Richfield Co.* (1980) 27 Cal.3d 167.

6 **WAGE/HOUR VIOLATIONS AND PAGA ALLEGATIONS**

7 24. At all times relevant hereto, Defendant regularly required Plaintiff and other aggrieved
8 employees to:

- 9 a. work in excess of eight (8) hours in a day and/or forty (40) hours in a week
10 without overtime premium wages;
11 b. work in excess of eight (8) hours in a day and/or forty (40) hours in a week
12 without appropriate piece-rate overtime;
13 c. work in excess of twelve (12) hours in a day and/or eight hours eight hours on
14 the seventh day of a workweek without overtime premium wages;

15 25. Further, at all times relevant hereto, PAGA was applicable to Plaintiff's employment
16 with Defendant POULIN VENTURES.

17 26. PAGA provides that any provision of law under the California *Labor Code* that
18 provides for a civil penalty to be assessed and collected by the California Labor & Workforce
19 Development Agency ("LWDA") for Labor Code violations may, as an alternative, be recovered
20 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
21 current or former employees pursuant to procedures outlined in California *Labor Code* section
22 2699.3.

23 27. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who
24 is any person that was employed by the alleged violator and against whom one or more of the
25 alleged violations was committed.

26 28. Plaintiff was employed by Defendants, and the alleged violation was committed
27 against Plaintiff during her time of employment. Plaintiff is therefore an aggrieved employee.
28 Plaintiff and other employees of Defendant POULIN VENTURES are "aggrieved employees" as

1 defined by California *Labor Code* section 2699(c) in that they are all current or former employees
2 of Defendants, and one or more of the alleged violations were committed against them.

3 29. Pursuant to California *Labor Code* sections 2699.3 and 2699.5, an aggrieved
4 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
5 requirements have been met:

- 6 a. The aggrieved employee shall give written notice by online submission (hereinafter
7 “Employee’s Notice”) to the Labor & Workforce Development Agency (hereinafter
8 “LWDA”) and by U.S. Certified Mail to the employer of the specific provisions of
9 the California Labor Code alleged to have been violated, including the facts and
10 theories to support the alleged violations.
- 11 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and
12 the aggrieved employee by certified mail that it does not intend to investigate the
13 alleged violation within sixty (60) calendar days of the postmark date of the
14 Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is
15 not provided within sixty-five (65) calendar days of the postmark date of the
16 Employee’s Notice, the aggrieved employee may commence a civil action pursuant
17 to California *Labor Code* section 2699 to recover civil penalties in addition to any
18 other penalties to which the employee may be entitled.

19 30. Specifically, Plaintiff alleges that Defendant committed the following violations
20 during the relevant time period:

- 21 c. **Rounding:** Throughout the relevant time, Defendants maintained a policy and
22 practice of regularly rounding down employee work time to the closest quarter hour,
23 to the overall detriment of employees, thereby unlawfully failing to pay employees
24 for all hours worked.
- 25 d. **Failure to Pay Minimum Wage:** Defendants knew or should have known that
26 Plaintiff and other Aggrieved Employees were entitled to receive all wages owed to
27 them during their employment. Plaintiffs allege that several of Defendants’ practices
28 resulted in the failure to pay minimum wages. Plaintiffs allege that Defendants

1 require Plaintiff and other Aggrieved Employees to complete mandatory training
2 tasks at home for the benefit of the company. Defendant coined these assignments
3 “homework.” Plaintiff and other Aggrieved Employees were not compensated for
4 the time spent completing “homework.” As a result, Plaintiff’s daily compensation
5 did not amount to minimum wage when compared to hours worked. Defendants’
6 failure to pay legally required minimum wages to Plaintiff and other Aggrieved
7 Employees is in violation of the Wage Orders and constitutes unlawful or unfair
8 activity prohibited by California *Labor Code* sections 1194, 1197, and 1197.1.

- 9 e. **Failure to Pay Overtime:** Plaintiff alleges that several of Defendants’ practices
10 resulted in the failure to pay all overtime compensation owed. Plaintiff regularly
11 worked in excess of forty (40) hours in a week and on the seventh consecutive day
12 of the week without receiving mandatory overtime pay. Plaintiff alleges that
13 Defendants required Plaintiff and other Aggrieved Employees to complete
14 mandatory training tasks at home for the benefit of the company. Defendant coined
15 these assignments “homework.” Plaintiff and other Aggrieved Employees were not
16 compensated for the time spent completing “homework.” Plaintiff also alleges that
17 his managers and supervisors failed and refused to record time for time spent on
18 “homework” and even edited his time records to avoid payment of overtime.
19 Defendants’ unlawful practices and failure to account for time spent on work related
20 tasks resulted in failure to pay overtime wages. Defendants did not pay double time.
- 21 f. **Failure to Timely Pay Wages During Employment:** Defendants’ failure to timely
22 pay wages to Plaintiff and other Aggrieved Employees during employment in
23 accordance with *Labor Code* section 204 constitutes unlawful and/or unfair activity.
- 24 g. **Failure to Timely Pay Wages Upon Termination:** Defendants’ failure to timely
25 pay wages to Plaintiff and other Aggrieved Employees upon termination in
26 accordance with *Labor Code* sections 201 and 202 constitutes unlawful and/or unfair
27 activity.
28

- 1 h. **Inaccurate Wage Statements:** Defendants’ unlawful failure to pay regular,
2 minimum, and/or overtime wages has also resulted in its non-exempt employees
3 receiving inaccurate wage statements. Defendants’ failure to keep complete and
4 accurate payroll records relating to Plaintiff and the other aggrieved employees in
5 accordance with California *Labor Code* section 1174(d) constitutes unlawful and/or
6 unfair activity.
- 7 i. **Waiting Time:** Defendants did not cure their failures to pay minimum, regular,
8 overtime, or double time wages at the time of separation. Accordingly, Plaintiff and
9 other Aggrieved Employees are entitled to recovery of “waiting time” penalties.
- 10 j. **Failure to Reimburse Necessary Business-Related Expenses and Costs:** Plaintiff
11 and other Aggrieved Employees were required to use their personal cell phones and
12 Wi-Fi when working from home. Plaintiff was never reimbursed for the use of these
13 devices. Defendants’ failure to reimburse Plaintiff and other Aggrieved Employees
14 for necessary business-related expenses and costs in accordance with California
15 *Labor Code* sections 2800 and 2802 constitutes unlawful and/or unfair activity.
- 16 k. **Unlawful Commissions Deduction:** At all relevant times, Defendants employed
17 practices of deducting employee commissions for “infractions” that would not
18 amount to a dishonest or willful act, or by the gross negligence of the employee. For
19 example, Defendants’ form commissions agreement allowed Defendants to deduct
20 \$50.00 from an employee’s earned commissions if that employee failed “to submit
21 all appropriate Wufoo forms.” Defendant’s form commissions agreement also
22 entitled Defendants to deduct \$5.00 for “[n]ot checking off the correct option that
23 apply for NEW coaching.” Defendants routinely made such deductions from the
24 earned commissions of its employees to the detriment of Plaintiff and other
25 aggrieved employees.

26 31. On August 26, 2021, Plaintiff provided written notice by online submission to the
27 LWDA and by U.S. Certified Mail to Defendant of the specific provisions of the California *Labor*
28

1 *Code* alleged to have been violated, including the facts and theories to support the alleged
2 violations.

3 32. By the time of filing this Complaint, sixty-five (65) calendar days have passed since
4 Plaintiff notice and Plaintiff has not received any correspondence from the LWDA. Therefore,
5 Plaintiff has satisfied the administrative prerequisites under California *Labor Code* section
6 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for violations
7 of California Labor Code sections 201, 202, 203, 204, 221, 226(a), 226.7, 510, 512(a), 1174(d),
8 1194, 1197, 1197.1, 1198, 2800 and 2802.

9 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
10 or should have known that Plaintiff and the other aggrieved employees were entitled to receive
11 certain wages for overtime compensation and that they were not receiving wages for overtime
12 compensation.

13 34. Defendants' conduct described herein was undertaken, authorized, and/or ratified
14 Defendants' officers, directors and/or managing agents who were authorized and empowered to make
15 decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said
16 managing agents and individuals was therefore undertaken on behalf of Defendants who further had
17 advanced knowledge of the actions and conduct of said individuals whose actions and conduct were
18 ratified, authorized, and approved by managing agents whose precise identities are unknown to
19 Plaintiff at this time and are therefore identified and designated herein as DOES 1 through 20,
20 inclusive.

21 35. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer
22 general and special damages, including severe and profound pain and emotional distress, anxiety,
23 depression, headaches, tension, and other physical ailments, as well as medical expenses, expenses
24 for psychological counseling and treatment, and past and future lost wages and benefits.

25 36. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,
26 commissions, benefits and loss or diminution of earning capacity.

27 37. Plaintiff claims general damages for emotional and mental distress and aggravation in a
28 sum in excess of the jurisdictional minimum of this Court.

38. Because the acts taken toward Plaintiff were carried out by officers, directors and/or managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this Court.

FIRST CAUSE OF ACTION

Failure to Pay Minimum Wages, Cal. Lab. C. §§ 1182.12, 1194, 1194.2, 1197 and 1197.1

(Against all Defendants)

39. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

40. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, or the applicable Industrial Welfare Commission (“IWC”) Wage Order.

41. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

42. During the relevant time period, Defendants paid Plaintiff less than minimum wages when they failed to pay proper compensation for all hours worked. To the extent these hours do not qualify for the payment of overtime, Plaintiff were not being paid at least the lawful minimum wage for their work.

43. Defendants' failure to pay Plaintiff the required minimum wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees.

44. Pursuant to Labor Code § 1194.2, Plaintiff and Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued interest thereon.

45. Labor Code § 1194 establishes an employee's right to recover unpaid wages, including overtime compensation and interest, and the cost of suit. California Labor Code § 1198 further provides that the employment of an employee for longer than those fixed by the IWC Wage Orders

1 is unlawful.

2 **SECOND CAUSE OF ACTION**

3 **Failure to Pay Overtime Wages in Violation of Cal. Lab. C. §§ 510, 1194, 1198**

4 **(Against all Defendants)**

5 46. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 47. *Labor Code* § 1198 and the applicable IWC Wage Order provide that it is unlawful to
8 employ persons without compensating them at a rate of pay either one and one-half (1½) or two (2)
9 times the person's regular rate of pay, depending on the number of hours or days worked by the person
10 on a daily or weekly basis.

11 48. Specifically, the *Labor Code* and applicable IWC Wage Orders provide that
12 Defendants are and were required to pay overtime compensation to Plaintiff at the rate of one and
13 one-half times (1½) Plaintiff's regular rate of pay when working and for all hours worked in excess
14 of eight (8) hours in a day, or more than forty (40) hours in a workweek, and for the first eight (8)
15 hours of work on the seventh day of work in a workweek.

16 49. California *Labor Code* § 510 codifies the right to overtime compensation at one and
17 one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a day, or
18 forty (40) hours in a week, and for the first eight (8) hours worked on the seventh consecutive day of
19 work, and overtime compensation at twice the regular hourly rate for hours worked in excess of
20 twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a
21 workweek.

22 50. Both *Labor Code* § 510 and the applicable IWC Wage Order provides that
23 employment of more than six days in a workweek is only permissible if the employer pays proper
24 overtime compensation as set forth herein.

25 51. At all times relevant hereto, Plaintiff was a non-exempt employee entitled to the
26 protections of California *Labor Code* §§ 510 and 1194.

27 52. During the relevant time period, Defendants required Plaintiff to work in excess of
28 eight (8) hours in a day, forty (40) hours in a week, and/or for a seventh consecutive day in a

workweek without paying Plaintiff overtime wages for his work.

53. During the relevant time period, Defendants knowingly and willfully failed to pay Plaintiff overtime wages for all overtime hours worked when Plaintiff worked in excess of eight (8) hours in a day, forty (40) hours in a week and/or for a seventh consecutive day of work in a workweek, or when Plaintiff worked in excess of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a work week.

54. Defendants' failure to pay Plaintiff the unpaid balance of overtime and double time compensation, as required by California law, violates the provisions of *Labor Code* §§ 510 and 1198, and is therefore unlawful.

55. Pursuant to *Labor Code* § 1194, Plaintiff is entitled to recover unpaid overtime and double time compensation as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

Failure to Timely Pay Wages Upon Termination in Violation of Cal. Lab. C. §§ 201-203

(Against Defendants POULIN VENTURES, BRANDON POULIN, and DOES 25 – 50)

56. Plaintiff refers to and incorporates herein by reference the previous paragraphs as though fully set forth herein.

57. Pursuant to California *Labor Code* §§ 201, 202, and 203, Defendants are required to pay all earned and unpaid wages to discharged employees and employees who resign from employment with Defendants.

58. California *Labor Code* § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately.

59. Pursuant to California *Labor Code* § 202, Defendants are required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

60. California *Labor Code* § 203 provides that if an employer willfully fails to pay, in accordance with California *Labor Code* §§ 201 and 202, any wages of an employee who discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation

1 to the employee at the same rate for up to 30 workdays.

2 61. Defendants have willfully failed, and continue to willfully fail, to pay accrued wages
3 and other compensation to Plaintiff following his termination in accordance with California *Labor*
4 *Code* §§ 201 and 202.

5 62. As a result, Plaintiff is entitled to all available statutory penalties, including the waiting
6 time penalties provided in California *Labor Code* § 203, together with interest thereon, as well as
7 other available remedies.

8 **FOURTH CAUSE OF ACTION**

9 **Failure to Provide Accurate Wage Statements in Violation of Cal. Lab. C. §§ 226, *et seq.***
10 **(Against Defendants POULIN VENTURES, BRANDON POULIN, and DOES 25 – 50)**

11 63. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
12 though fully set forth herein.

13 64. During Plaintiff's employment with Defendants, Defendants intentionally and
14 knowingly failed to provide Plaintiff with timely and accurate wage and hour statements showing
15 gross hours earned, total hours worked, all deductions made, net wages earned, and all applicable
16 hourly rates in effect during each pay period and the corresponding number of hours worked at each
17 hourly rate.

18 65. Defendants systematically failed to provide such wage statements with accurate
19 information and engaged in a policy of under-reporting and failing to pay for all hours actually
20 worked, all in violation of California *Labor Code* § 226 and related statutes.

21 66. As a result of Defendants' violation of California *Labor Code* § 226 and related
22 statutes, Plaintiff has suffered injuries and damages, including, but not limited to: Plaintiff was not
23 paid wages due, and the absence of actual hours worked makes it difficult for Plaintiff to collect any
24 overtime wages due.

25 67. As a result of Defendants' intentional failure to provide Plaintiff with accurate and
26 itemized wage statements, Plaintiff is entitled to all available statutory penalties, costs, and attorneys'
27 fees, including those provided in California *Labor Code* § 226(e), as well as all other available
28 remedies.

1 **FIFTH CAUSE OF ACTION**

2 **Failure to Indemnify for Business Expenses in Violation of Cal. Lab. C. § 2802**

3 **(Against Defendants POULIN VENTURES, BRANDON POULIN, and DOES 25 – 50)**

4 68. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
5 though fully set forth herein.

6 69. California *Labor Code* § 2802(a) requires an employer to “indemnify his or her
7 employee for all necessary expenditures or losses incurred by the employee in direct consequence
8 of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

9 70. During the course of Plaintiff’s employment, Defendants failed to reimburse
10 Plaintiff for the purchase of and expenses related to his cell phone and wireless home internet, all of
11 which were used for work-related activities.

12 71. As a result, Plaintiff is entitled to civil penalties pursuant to California *Labor*
13 *Code* §§ 203, 1194, 1197, 2802, 2804 and related statutes, the exact amounts of such damages to be
14 proven at trial.

15 **SIXTH CAUSE OF ACTION**

16 **Unfair Competition in Violation of Bus. and Prof. C. §§ 17200 *et seq.***

17 **(Against Defendants POULIN VENTURES and DOES 1 – 24)**

18 72. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
19 though fully set forth herein.

20 73. California Business and Professions Code §17200 provides, in relevant part: “As
21 used in this chapter, unfair competition shall mean and include any unlawful or fraudulent business
22 act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by
23 Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and
24 Professions Code.”

25 74. Through the conduct alleged herein, Defendants have acted contrary to these public
26 policies, have violated specific provisions of the *Labor Code*, and have engaged in other unlawful
27 and unfair business practices in violation of California Business and Professions Code §17200, *et*
28 *seq.*, thus depriving Plaintiff of rights, benefits, and privileges guaranteed to all employees in

1 California. Defendants' conduct as alleged herein constitutes unfair competition in violation
2 of section 17200 *et seq.* of the California Business and Professions Code.

3 75. The acts of Defendants as alleged herein were unfair, unlawful, and fraudulent as
4 defined in California Business and Professions Code §17200. Such acts constitute an unfair
5 business practice and unfair competition, thus violating California Business and Professions
6 Code §17200, *et seq.* As a result, Defendants obtained valuable property, money, and/or services
7 from Plaintiff, including earned wages for all hours worked, and have deprived Plaintiff of valuable
8 rights and benefits guaranteed by law, all to the detriment of Plaintiff and to the benefit of
9 Defendants so as to allow Defendants to unfairly compete against competitors who comply with the
10 law.

11 76. As a result of the foregoing conduct, Plaintiff is entitled to recover restitution
12 damages. Plaintiff is also entitled to recover reasonable attorneys' fees pursuant to Code of Civil
13 Procedure §1021.5.

14 **SEVENTH CAUSE OF ACTION**

15 **Retaliation in Violation of *Labor Code* § 1102.5**

16 **(Against Defendants POULIN VENTURES and DOES 1 – 24)**

17 77. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
18 though fully set forth herein.

19 78. At all times relevant hereto, California *Labor Code* § 1102.5 was in full force and
20 effect and was binding on the Defendants, and each of them. This section prohibits retaliation
21 against an employee for reporting conduct that he or she reasonably believes constitutes or would
22 result in a violation of or noncompliance with state or federal statute, rules, or regulations, or for
23 refusing to participate in conduct that he or she reasonably believes constitutes or would result in a
24 violation of or noncompliance with state or federal statute, rules, or regulations.

25 79. At all times relevant hereto, Plaintiff had a reasonable belief that Defendants were
26 violating or failing to comply with state and federal labor, wage, and hour laws. Plaintiff reported
27 the violations of and noncompliance with law to Defendant POULIN VENTURES' management
28 and supervisors.

80. Defendants, and each of them, retaliated against Plaintiff for reporting conduct he reasonably believed violated or failed to comply with state and federal labor, wage, and hour laws. As a result, Plaintiff was subjected to adverse employment actions, including but not limited to termination.

81. As a direct, foreseeable, and proximate result of Defendant's retaliatory conduct and wrongful termination, Plaintiff has suffered and continues to suffer humiliation, embarrassment, anxiety, mental anguish, and emotional distress. Plaintiff was required to and did employ, and will in the future employ, physicians and health care providers to examine, treat and care for Plaintiff, and did, and will in the future, incur medical and incidental expenses. The exact amount of such expenses is unknown to Plaintiff at this time.

82. As a direct, foreseeable, and proximate result of the Defendant's retaliatory conduct and wrongful termination, Plaintiff has suffered and continues to suffer losses in earnings and other employment benefits all to Plaintiff's damage and in an amount in excess of the minimum jurisdictional limits of this court, the precise amount of which will be proven at trial.

83. As a further legal result of the above-described unlawful conduct of Defendants, and each of them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to proof.

EIGHTH CAUSE OF ACTION

Retaliation in Violation of *Labor Code* § 98.6

(Against Defendants POULIN VENTURES and DOES 1 – 24)

84. Plaintiff refers to and incorporates herein by reference the previous paragraphs as though fully set forth herein.

85. At all times relevant hereto, California *Labor Code* § 98.6 was in full force and effect and was binding on the Defendants, and each of them. This section provides that an employer “shall not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against any employee . . . because the employee . . . [filed] a bona fide complaint or claim or instituted or caused to be instituted any proceeding under or relating to his or her rights that are under the jurisdiction of the Labor Commissioner, made a written or oral complaint that he or she is

1 owed unpaid wages, or because the employee has initiated any action or notice pursuant to § 2699,
2 or has testified or is about to testify in a proceeding pursuant to that section, or because of the
3 exercise by the employee or applicant for employment on behalf of himself, herself, or others of
4 any rights afforded him or her.”

5 86. At all times relevant hereto, Plaintiff had a reasonable belief that Defendants were
6 violating or failing to comply with state and federal labor, wage, and hour laws. Specifically,
7 Plaintiff complained that he or she was owed unpaid wages, and Plaintiff reported the same to
8 Defendant POULIN VENTURES.

9 87. Defendants, and each of them, retaliated against Plaintiff for reporting or otherwise
10 complaining that he was and is owed unpaid wages. As a result, Plaintiff was subjected to adverse
11 employment actions, including but not limited to termination.

12 88. As a direct, foreseeable, and proximate result of Defendant’s retaliatory conduct and
13 wrongful termination, Plaintiff has suffered and continues to suffer humiliation, embarrassment,
14 anxiety, mental anguish, and emotional distress. Plaintiff was required to and did employ, and will
15 in the future employ, physicians and health care providers to examine, treat and care for Plaintiff,
16 and did, and will in the future, incur medical and incidental expenses. The exact amount of such
17 expenses is unknown to Plaintiff at this time.

18 89. As a direct, foreseeable, and proximate result of the Defendant’s retaliatory conduct
19 and wrongful termination, Plaintiff has suffered and continues to suffer losses in earnings and other
20 employment benefits all to Plaintiff’s damage and in an amount in excess of the minimum
21 jurisdictional limits of this court, the precise amount of which will be proven at trial.

22 90. As a further legal result of the above-described unlawful conduct of Defendants, and
23 each of them, Plaintiff has and will continue to incur attorneys’ fees and costs in an amount
24 according to proof.

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1 **NINTH CAUSE OF ACTION**

2 **Wrongful Termination in Violation of Public Policy**

3 **(Against Defendants POULIN VENTURES and DOES 1 – 24)**

4 91. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
5 though fully set forth herein.

6 92. At all times mentioned herein, Government Code § 12940 and other code sections
7 cited herein were in full force and effect and were binding on Defendants. The code sections evince
8 policies that benefit society at large, were well-established at the time of Plaintiff's discharge, and
9 are substantial and fundamental.

10 93. Plaintiff alleges that he was discharged from his employment with Defendant
11 POULIN VENTURES for reasons that violate public policy. Specifically, it is a violation of public
12 policy to discharge an individual from employment because of his exercise of protected activity as
13 alleged herein.

14 94. At all times relevant hereto, Plaintiff was employed by Defendant POULIN
15 VENTURES. Defendant discharged Plaintiff as a result of Plaintiff's exercise of protected activity
16 as alleged herein. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff's
17 exercise of protected activity was a substantial motivating reason for Plaintiff's discharge.

18 95. As a direct, foreseeable, and proximate result of Defendant's retaliatory conduct and
19 wrongful termination in violation of public policy, Plaintiff has suffered and continues to suffer
20 humiliation, embarrassment, anxiety, mental anguish, and emotional distress. Plaintiff was required
21 to and did employ, and will in the future employ, physicians and health care providers to examine,
22 treat and care for Plaintiff, and did, and will in the future, incur medical and incidental expenses.
23 The exact amount of such expenses is unknown to Plaintiff at this time.

24 96. As a direct, foreseeable, and proximate result of the Defendant's retaliatory conduct
25 and wrongful termination, Plaintiff has suffered and continues to suffer losses in earnings and other
26 employment benefits all to Plaintiff's damage and in an amount in excess of the minimum
27 jurisdictional limits of this court, the precise amount of which will be proven at trial.

97. As a further legal result of the above-described unlawful conduct of Defendants, and each of them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to proof.

TENTH CAUSE OF ACTION

Private Attorney General Act, §§ 2698, *et seq.*

(Against Defendants POULIN VENTURES and DOES 1 – 24)

98. Plaintiff refers to and incorporates herein by reference the previous paragraphs as though fully set forth herein.

99. Under the Private Attorneys General Act of 2004, Cal. Labor Code §§ 2698-2699.5, an aggrieved employee, on behalf of himself or herself and other current or former employees, may recover penalties under any provision of the Cal. Labor Code that provides for civil penalties. These penalties are in addition to any other relief available under the California *Labor Code*.

100. As set forth above, Defendant has committed numerous violations for which the *Labor Code* provides for penalties, including violations of California *Labor Code* §§ 201, 202, 203, 204, 221, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

101. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved employees” as defined by California *Labor Code* section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

102. Plaintiff has provided written notice by certified mail to the LWDA and to Defendant of the legal claims and theories of this case. Sixty-five days have passed since the postmark date of the written notice to the LWDA, and Plaintiff has not received notification from the LWDA that it intends to investigate the alleged violations. Accordingly, Plaintiff has exhausted administrative remedies as required by California *Labor Code* § 2699.3.

103. As a direct result of Defendant's conduct as described, Plaintiff is entitled to recover, on his own behalf and on behalf of others similarly situated, the maximum civil penalties permitted by the Private Attorneys General Act from Defendants for all violations of *Labor Code* §§ 201, 202, 203, 204, 221, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, as well as reasonable attorney's fees and costs.

104. Defendant's conduct of violating the California *Labor Code* constitutes violations of the PAGA. Therefore, Plaintiff requests penalties against Defendant under the provisions of PAGA section 2699(f).

105. The proper measure of damages and penalties under the PAGA is to be calculated based on the total number of all aggrieved employees, whether they are a party to this action or not. Further, this claim needs no certification to proceed with class-wide recovery. *See Arias v. Superior Court* (2009) 46 Cal. 4th 969, 970-975.

106. Further, as a direct and proximate result of the conduct of Defendant, as set forth above, Plaintiff was forced to incur substantial attorney's fees and costs which are recoverable under California Labor Code Section 2699(g)(1).

PRAYER FOR RELIEF

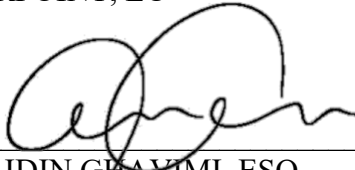
Wherefore, Plaintiff, individually, and on behalf of aggrieved employees, pray for an award and judgment against Defendants, jointly and severally, as follows:

1. For such general, special, and liquidated damages in amounts to be proven at the time of trial;
2. For restitution of all monies due to Plaintiff and Class members, as well as disgorged profits from defendants' unfair and unlawful business practices;
3. For punitive damages on applicable causes of action;
4. For payment of unpaid overtime compensation pursuant to Labor Code §§ 201, 510, 1194, the applicable industrial Welfare Commission Order, and the applicable 8 Code of Regulation sections;
5. For damages pursuant to Labor Code § 226;
6. For waiting time penalties pursuant to Labor Code §§ 201-203;
7. For interest on the unpaid wages at 10% per annum pursuant to California *Labor Code* and/or any other applicable provision providing for pre-judgment interest;
8. For declaratory relief;
9. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Code § 226(e);

- 1 10. For preliminary and permanent injunctive relief enjoining Defendants from violating
2 the relevant provisions of the California Labor Code and IWC Wage Order(s);
- 3 11. For an award of interest, including prejudgment interest, at the legal rate;
- 4 12. For an award of reasonable attorneys' fees and costs on the applicable causes of action
5 pursuant to California *Labor Code* §§ 1194 and 2802, California Civil Code 1021.5, and any other
6 applicable provisions providing for attorneys' fees and costs;
- 7 13. For costs of suit incurred;
- 8 14. For an order appointing Plaintiff as class representative and Plaintiff's counsel as class
9 counsel; and
- 10 16. For such other and further relief as the Court may deem just and appropriate.

11
12
13 DATED: October 12, 2021

STARPOINT, LC

14
15 By: 

AIDIN GHAVIMI, ESQ.

JOHN VAFA, ESQ.

Attorneys for Plaintiff, GORDON THOMAS, on
behalf of himself and all California aggrieved
employees

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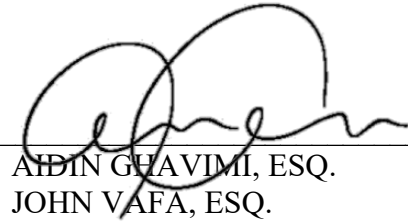
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATED: October 12, 2021

STARPOINT, LC

By: _____



AIDIN GHAVIMI, ESQ.

JOHN VAFA, ESQ.

Attorneys for Plaintiff,

GORDON THOMAS, on behalf of himself and all
California aggrieved employees